

**DEPARTMENTS OF COMMERCE, JUSTICE, AND  
STATE, THE JUDICIARY, AND RELATED AGEN-  
CIES APPROPRIATIONS FOR FISCAL YEAR 1995**

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**HEARINGS**

BEFORE A

**SUBCOMMITTEE OF THE  
COMMITTEE ON APPROPRIATIONS  
UNITED STATES SENATE**

**ONE HUNDRED THIRD CONGRESS**

**SECOND SESSION**

**ON**

**H.R. 4603**

**AN ACT MAKING APPROPRIATIONS FOR THE DEPARTMENTS OF COM-  
MERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGEN-  
CIES FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 1995, AND FOR  
OTHER PURPOSES**

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**Board for International Broadcasting  
Department of Commerce  
Department of Justice  
Department of State  
Executive Office of the President  
Federal Communications Commission  
Legal Services Corporation  
Nondepartmental witnesses  
Securities and Exchange Commission  
Small Business Administration  
The judiciary  
U.S. Information Agency**

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**DEPARTMENTS OF COMMERCE, JUSTICE, AND  
STATE, THE JUDICIARY, AND RELATED  
AGENCIES APPROPRIATIONS FOR FISCAL  
YEAR 1995**

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**TUESDAY, MARCH 1, 1994**

**U.S. SENATE,  
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,  
Washington, DC.**

The subcommittee met at 10:03 a.m., in room S-146, the Capitol,  
Hon. Ernest F. Hollings (chairman) presiding.  
Present: Senators Hollings and Domenici.

**EXECUTIVE OFFICE OF THE PRESIDENT**

**OFFICE OF THE U.S. TRADE REPRESENTATIVE**

**STATEMENT OF AMB. MICHAEL KANTOR, U.S. TRADE REPRESENTATIVE**

**PREPARED STATEMENT**

Senator HOLLINGS. The subcommittee will come to order. Senator Domenici, our ranking member, has an Energy Committee hearing, and expect him to be here momentarily.

Today we begin our review of the President's fiscal year 1995 budget by looking at the budget requests for the U.S. Trade Representative and the Small Business Administration.

Let me first welcome Ambassador Mickey Kantor to discuss the request for the Office of the U.S. Trade Representative [USTR] for fiscal year 1995. The President has proposed a \$21 million budget for the USTR organization for fiscal year 1995.

Mr. Ambassador, your statement in its entirety will be included in the record, and you can deliver it or highlight it as you wish.

Ambassador KANTOR. Thank you, Mr. Chairman. I appreciate that. With your permission, I would like to just highlight the statement and save the committee time.

Senator HOLLINGS. All right. Good.

Ambassador KANTOR. I will submit, obviously, the entire statement for the record.

[The statement follows:]

**STATEMENT OF AMBASSADOR MICHAEL KANTOR**

Mr. Chairman, I appreciate your invitation to appear before you to present the fiscal year 1995 appropriation request for the Office of the United States Trade Representative.

It has been nearly one year since I first testified before the Subcommittee. This morning, I would like to describe some of what we accomplished last year—and the important tasks that lie ahead.

#### 1993 ACCOMPLISHMENTS

Mr. Chairman, last year the United States enjoyed the most successful—and important—year in trade in our history.

In one year, President Clinton achieved the main goals of his 1993 trade agenda. His Administration accomplished the following:

- After years of gridlock, we concluded the Uruguay Round, the broadest, most comprehensive trade agreement in history, which will stimulate the U.S. and the global economy, and create a new organization—the World Trade Organization—that will support a fair global trading system into the next century;
- We negotiated supplemental agreements to the North American Free Trade Agreement (NAFTA) and saw its approval by Congress;
- At the G-7 Summit in Tokyo in July, the President reached a market access agreement with the “Quad” nations—the European Community, Japan, Canada, and the United States—which provided a jump-start for the Uruguay Round, and agreed to establish with Japan the Framework for a New Economic Partnership to achieve reform in Japan’s economy, open the Japanese market and correct macroeconomic imbalances which inhibit global growth and prosperity;
- President Clinton led a successful meeting of Asian nations—the fastest growing economic region on earth—in Seattle, and culminating a year of U.S. leadership of the Asia-Pacific Economic Cooperation, which will lead to expanded trade in the region;
- We negotiated key agreements which opened previously closed markets to U.S. companies—a heavy electrical equipment agreement with Europe, a construction agreement with Japan, and a telecommunications agreement with Korea—which represent a further step in our effort to create jobs and foster growth; and
- We negotiated dozens of bilateral agreements with countries from Cyprus to Venezuela that help ensure U.S. workers and companies can compete fairly in the global economy.

By leading the effort to open markets abroad and expand trade, the President has laid the foundation for prosperity into the next century. As a nation increasingly interdependent with the global economy, the ability of the United States to expand trading opportunities is essential to the economic health of our nation. His presidency is committed to reviving the American Dream, and these steps are integral to that effort.

#### FISCAL YEAR 1994 AND FISCAL YEAR 1995 AGENDA

This year and the next will be every bit as challenging as 1993. What we do in the coming months may be less visible than what we did last year, but it is just as important and will take the same commitment of resources. We need to build on the momentum gained, and take advantage of the great opportunities we face. Let me share with you our agenda.

##### *Uruguay Round*

The Uruguay Round agreement reached in December by no means ends the work we must do. Several critical tasks lie ahead. First, after we work with the Congress to ratify the Uruguay Round this year, we must get the new world trade organization up and running.

Second, we have a golden opportunity to negotiate market access with countries seeking accession to the WTO, including China, Taiwan, Saudi Arabia and many of the new republics from the former Soviet Union.

And third, we want to look at a new agenda in trade, which should be fostered by the new World Trade Organization, but needs to be sustained through bilateral and regional alliances as we build toward a truly world trading system. We also need to build on an effective dispute settlement mechanism in the WTO and make sure the United States government ensures that this mechanism works and works well.

##### *Japan*

As you know, on February 11, President Clinton announced that we had been unable to conclude negotiations with Japan on four new trade agreements called for under the joint statement on the United States-Japan framework for new economic framework of July 1993. The announcement followed six months of intensive negotiations.

Under the Framework, we had agreed with the Government of Japan to pursue trade agreements which would lead to "tangible results", results which would be measurable through the use of "objective criteria". In the end, the Japanese would not follow through on incorporating these key principles in a meaningful way. For our part, we declined to conclude agreements without these principles, out of concern that any such agreements would be cosmetic and fail to lead to real change in the Japanese market. Too many of our past trade agreements have fallen into this pattern.

At present, we are assessing the appropriateness of the Framework in serving as the primary forum for addressing our trade policy concerns with Japan. We are also examining other options, including those provided by Congress under the Trade Law.

Subsequent to impasse in the Framework talks, but relevant to our concerns about the efficacy of past agreements, USTR on February 15 announced a determination under section 1377 of the Omnibus Trade and Competitiveness Act of 1988 that Japan had not complied with a 1989 agreement to open its cellular telephone market to foreign manufacturers. This action resulted from a clear-cut failure of Japan to live up to a series of agreements dating back to 1986 and span two trade agreements and a commercial understanding. We are now in the process of drawing up a list of Japanese products on which to levy sanctions in the wake of the determination.

#### *China*

In China, we have a market access agreement that is working in some respects. They are lifting quantitative barriers on about 256 items and goods, but they are not opening up in agriculture as fast as we would like. Last month, we reached a textile agreement with the Chinese and we need to make sure that this is enforced, to stop the transshipment of textiles and apparel, circumventing both U.S. law and international law. China wants GATT accession and in order to achieve that the Chinese need to work with the United States and others to make sure they are adhering to world trade regimes.

#### *Latin America*

There is no greater opportunity we have than in Latin America, the second fastest growing economic region in the world. It is the one region in the world where we have a large trade surplus because they are importing huge amounts of capital and other goods in order to build their industries and their economies.

That is important for us as we try to build on to the NAFTA. We will use a "building block" approach, using bilateral agreements as well as the NAFTA, to try to build an expanded trade zone in the hemisphere.

It is incredibly important that we not rest on our laurels with the NAFTA, and that we not forget that living south of Mexico are about 320 million people in the second fastest growing economic region in the world.

#### *European Union*

We have a number of items on the agenda with the European Union, but given our agreement in the Uruguay Round, our relations with the European Union have never been better in the area of trade. We have issues—such as the broadcast directive and opening up the telecommunications market, which is about \$20 billion a year—which we will address.

#### *Generalized System of Preferences*

We plan to seek legislative renewal of the successful Generalized System of Preferences program. Authority for GSP ends on September 30, 1994, and we will propose an extension that expands benefits for the least developed countries, while retaining conditionality and lowering the thresholds for product and country renewal for other beneficiaries.

#### *APEC*

Through fiscal year 1995 and beyond, we will also build on our success from APEC—the Asia Pacific Economic Cooperation. Asia is not just Japan and China. It is the ASEAN nations, New Zealand, Australia, Korea and Hong Kong. Collectively, APEC countries are the fastest growing economies in the world. With the Seattle summit last year, we set up a good trade and investment framework with the APEC, but we need to extend that framework even further.

### *Other Agenda Issues*

As we negotiate bilaterally and multilaterally to open new markets and eliminate trade barriers, we will also work hard for a better environment, for better workers' rights and enhanced labor standards.

International trade does not occur in a vacuum. Trade is no longer just about lower tariffs. Trade affects the environment, labor standards, and human rights. Competition policies which effectively block U.S. exports have an impact on trade. Through fiscal year 1995 and into the future, we are going to have to look at all of these issues, as well as continuing trade issues like investment, intellectual property and illicit payments. As we negotiate trade agreements and work through the newly established World Trade Organization and the OECD, we will work for improvements in each of these areas.

### *Fiscal Year 1995 Budget Request*

As you can see, fiscal years 1994 and 1995 are demanding times for USTR. This is a vitally important period for the agency and for trade because of the great opportunities we face. Exploiting those opportunities will draw on all of our energies and our budgetary resources.

We are requesting today an fiscal year 1995 budget which allows USTR to capitalize on the opportunities and challenges before us, yet which also carries out the President's program for budgetary restraint throughout the Federal government.

The fiscal year 1995 budget request is for \$21 million and 168 Full Time Equivalent staff. Our request maintains USTR staffing at the fiscal year 1994 FTE level and decreases the appropriation level by \$225,000 below fiscal year 1994.

The \$225,000 funding decrease is a net reduction resulting from a number of offsetting factors. Highlights of these changes are:

- a \$228,000 increase for a new Tied Aid program, to be administered by the Department of State, but financed by Federal trade and foreign affairs agencies, like USTR;
- a \$501,000 decrease in travel and transportation expenses, reflecting the extraordinarily busy travel demands in fiscal year 1994, and the return to more traditional levels in fiscal year 1995;
- a \$227,000 reduction in printing expenses, also reflecting the unusually high fiscal year 1994 costs resulting from the completion of two major agreements that year (NAFTA and the Uruguay Round);
- a \$412,000 net decrease in office rent and other administrative overhead (partially offset by rising costs from inflation), which is part of our ongoing efforts to curb administrative expenses; and
- a \$234,000 reduction from personnel savings that stem from more restrictive hiring practices and tighter management of job vacancies.

### CONCLUSION

Mr. Chairman and Members of the Committee, our budget request meets the dual tests of first providing the budgetary resources we need to meet the work agenda for fiscal year 1995, and second carrying out the President's program for budget restraint.

I would be remiss if I did not mention this morning that in my opinion the American taxpayer gets no better "bang for the buck" than from the investment in USTR employees. Virtually all of the funds in USTR's budget pays for employee salaries and work expenses. They are the hardest working staff I have seen in Government or the private sector, and there is no doubt that the \$21 million investment in this agency's budget will pay dividends for American business and workers many times over for many years into the future.

This concludes my statement and I would be pleased to answer any questions you have.

## EXECUTIVE OFFICE OF THE PRESIDENT

## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

## OPERATIONS AND ADMINISTRATION RESOURCE ESTIMATES, FISCAL YEAR 1995

## FISCAL YEAR 1995 GENERAL STATEMENT

## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

This request provides funds to support the mission of the Office of the United States Trade Representative (USTR) in fiscal year 1995. That mission is the development, coordination, negotiation and management of U.S. trade policy for the President. In fiscal year 1995, USTR is requesting \$21,000,000 in budget authority and 168 full-time equivalent (FTE) positions. Because of the \$550,000 supplemental in fiscal year 1994, this represents a decrease of \$150,000 in budget authority from fiscal year 1994. The fiscal year 1995 estimated obligation level is \$21,380,000.

The world has undergone economic change which has created new challenges for the United States, as well as new opportunities. We must take on the challenges, and benefit from the opportunities that abound in today's world. The United States still has the largest economy in the world, and is extremely well positioned to continue to prosper well into the next century.

The greatest change of all is the end of the Cold War, which shaped much of our domestic and economic policy over the last 45 years, as well as our foreign policy. We are at what the President likes to call the "the third great moment of decision in the 20th century." He challenged Americans by asking, "Will we repeat the mistakes of the 1920's or the 1930's by turning inward, or will we repeat the successes of the 1940's and 1950's by reaching outward and improving ourselves as well?" This remains our great challenge and one we readily face. The United States accepts its responsibility to lead the effort to expand global prosperity. We will be engaged abroad, while we take care of our problems here at home. Both are essential to our future prosperity.

During the Cold War, the U.S. was the most open nation in the world, and we used our relatively open borders to foster prosperity in Europe, Japan and elsewhere, in the fight against communism. Now we must use our leadership to promote expanded trade, and more open markets around the world. We have a fifty year experiment that revealed how open markets and expanded trade leads to greater prosperity.

But other nations must accept responsibility also, if they want to be part of the global trading system, and enjoy the opportunities available in the global economy. Other nations must open their markets and play by the rules if they want to be partners to the United States. It is in their own interest to do so, since increased trade is the avenue to mutual prosperity. Trade is a two way street.

The United States has never been better positioned to take advantage of the benefits of engagement in the global economy. We are getting our economic house in order. When President Clinton took office, the economic news was bleak. Close to the center of the problem was our failure to adjust sufficiently, and to compete successfully, in the new global economy. Trade was seen as part of the problem, not part of the solution to our economic concerns.

The United States has turned the corner. We are in the midst of a solid recovery, fueled by record low interest rates. Unemployment has come down, inflation has stayed low, million of jobs have been created. With a revived America, we can succeed in the global economy. Our workers are the most productive in the world, and our economy is increasingly geared towards trade, which counts for over a quarter of our GNP. U.S. products from computers to construction, from movies to tennis shoes are competitive around the globe. Made in America still represents a standard of excellence.

To remain competitive, create jobs, and ensure prosperity, we must open markets abroad; we must not shrug off our responsibilities as world leaders but we must be engaged in the world, in the effort to foster global prosperity, democracy and peace. We challenge other nations to do the same; to accept the responsibility that comes with economic partnership, with the hope of enjoying together the opportunities of global prosperity.

President Clinton laid out his vision for increasing trade and expanding global opportunity in speeches early in his administration at American University and the Export Import Bank. He built on that vision throughout 1993 and he continued to speak eloquently and forcefully for trade. Last year was the most important year for trade in U.S. history. During the year we were guided by three principles, all

of which were mutually reinforcing. We will continue to be guided by those principles.

First, we must compete not retreat. That simple phrase really conveys what our trade policy is all about. We will face head-on the challenges of the new global economy. We will be engaged in the world. This Administration will actively pursue the opening of markets around the world, and ensure that American workers compete on a level playing field. Last year we took substantial first steps:

- In the Fall, the Congress approved the North American Free Trade Agreement, creating the world's largest free trade area, among the United States, Canada and Mexico, and fostering a new era of partnership and prosperity with our neighbors in North America.

- In December we concluded, after seven long years of negotiations, the Uruguay Round, the broadest, most comprehensive trade agreement in history.

As we look to the year ahead, the President is committed to engaging other countries in Latin America in partnerships. We are realistic. Not all countries in Latin America are ready for free trade agreements with the United States. Hopefully, the experience of NAFTA will entice those countries that are resistant to opening their markets to change their minds.

In November, Asian countries, representing the fastest growing economic region on earth, met in Seattle, taking the first steps to expanding trade and investment in the region. It has been estimated that Asia, excluding Japan, will spend a \$1 trillion on infrastructure over the next ten years. Collectively the 15 APEC economies represent the most powerful regional economy in the world. They contain 40 percent of the world's population, have a combined gross domestic product of \$13 trillion and account for 40 percent of total world trade.

About two-thirds of the growth in global imports are projected to be in developing countries. In 1992, our trans-Pacific trade exceeded our trans-Atlantic trade by 50 percent. U.S. investment in Asia and the Pacific doubled between 1985 and 1990 and cumulatively stands at \$140 billion. APEC economies are the recipients of approximately 30 percent of total U.S. direct foreign investment.

We seek expanded trade with Asia, particularly through the work of the U.S.-ASEAN Alliance for Mutual Growth, which was initiated at the APEC Ministerial.

In addition, we will also seek renewal of the United States' GSP program. GSP is a highly beneficial program with a proven record of success. USTR is committed to its legislative renewal.

Second, trade does not exist in a vacuum. Trade is connected to domestic priorities. It will not matter much if all the markets in the world are completely open to U.S. exports if our workers are uneducated, and our infrastructure is crumbling. We must first attack our domestic problems head on. Health care, education, the worker security program which Secretary Reich is working on, and getting our economic house in order are all vital pieces of the strategy of making the U.S. more competitive and prosperous.

Trade is also an essential element of our foreign policy, of our effort to expand democracy, free market economies, prosperity in peace.

In addition, there will be continued emphasis on the relationship of trade to issues such as labor rights, competition policy, and the environment. We began addressing these issues—and acknowledging there is a connection—with the negotiation of supplemental agreements on environment and labor to NAFTA. And we hope these issues will be part of the multilateral work program.

Third, trade is a two way street. The United States is accepting responsibility as a full participant in the global economy. All we ask is that other nations do the same. NAFTA perfectly embodies the spirit of trade as a two-way street.

In July 1993, at the Economic Summit in Tokyo, we created a new framework to increase exports to Japan and break an intolerable status quo. A strong U.S.-Japan relationship is critically important for the prosperity of both countries and the world economy. The United States and Japan are the two largest economies in the world, together accounting for 40 percent of the world's output. Yet, by February 1994, with Japan's failure to open markets as required under the Third Party Radio and Cellular Agreement, USTR announced that Japan was in violation of the agreement and USTR would begin to prepare a sanctions package.

China's market is booming and opportunities abound for U.S. companies. Growth last year was approximately 13 percent and is expected to hover around 10 percent for the next decade. China's emerging free market industries are hungry for the high-tech products in which U.S. companies excel. They intend to spend \$300 to \$400 billion on infrastructure in the next five years. But our trade relationship is badly out of balance and we do not have comparable access in China. We are now actively engaged in seeing that China opens its doors to U.S. goods and services, and in ensuring that China plays by the international trade rules.

In addition, last year we took actions in several cases where American products were restricted overseas, to ensure that American companies and workers would have access to those markets. We reached agreement with Korea to fully enforce its commitment to open its telecommunications sector, a market worth \$384 million; with the EC gaining access to the roughly \$20 billion EC market for government-procured heavy electrical equipment; and with the EC on telecommunications equipment. These actions are all efforts to open foreign markets to expand opportunities for U.S. companies and workers. We will use whatever tools we have to do this—by negotiating new agreements, or enforcing existing trade laws.

Last year was a historic year for trade, but the years ahead will be historic, as well. We are laying the foundation for prosperity into the next century and reviving the American dream. We must not forget what is at stake. Trade is not abstract. Our success—or failure—in opening markets, and creating new opportunities will be felt at the workplace, and in people's homes. Our success will be felt by the millions of workers in jobs not directly related to trade, but dependent on it anyway—in retailing, insurance, or construction.

The President put it best in his speech at American University. "The truth of our age is this and must be this: open and competitive commerce will enrich us as a nation. It spurs us to innovate. It forces us to compete. It connects us with new customers. It promotes global growth without which no rich country can hope to grow wealthier."

Last year, President Clinton challenged us. "In the face of all the pressures to do the reverse," he said, "we must compete not retreat."

America is on its way back. We are facing the responsibilities and are poised to reap the opportunities in this changed world. We met that challenge last year, and we will continue to meet it in the years ahead.

#### ENACTED FISCAL YEAR 1994 SUPPLEMENTAL APPROPRIATION

##### *Funds Provided under the Supplemental*

Congress initially funded USTR at \$20,600,000 for fiscal year 1994. In February 1994 the Congress enacted the Emergency Supplemental Act of Fiscal Year 1994 (Public Law 103-211). This supplemental provided an additional \$550,000 for USTR operations bringing the fiscal year 1994 budget authority level to \$21,150,000. These additional funds will be used to meet cost of intensified negotiations with Japan, Latin America, and other countries, building on the momentum gained from the conclusion of the Uruguay Round and from passage of the North America Free Trade Agreement. These funds will be used chiefly for negotiator travel.

In addition, the supplemental provides appropriated to the Executive Office of the President (EOP) funds to install an electronic records system. USTR will receive \$75,000 of these funds. This project will be undertaken to comply with the recent *Armstrong v. EOP* court ruling, requiring Executive Office of the President agencies to preserve electronic records, including electronic mail. The \$75,000 will be used to purchase computer equipment and services to enhance USTR's local area network computer system to allow electronic preservation of records.

The fiscal year 1994 supplemental appropriation did not include \$250,000 of the Administration's budget request. These funds were planned for the purchase and installation of computer equipment for a secure (classified) Local Area Network and an Electronic Cabling capability. Currently, USTR's LAN is for unclassified processing only, and the installation of a secure LAN would greatly improve productivity and security at the agency. The introduction of electronic cabling at USTR would allow worldwide State Department cables to be received at USTR through the secure LAN, without the inefficiencies of the existing hard copy paper cable system. USTR estimates that Electronic Cabling will result in \$250,000 in annual productivity improvements and real budget savings, yielding a one year return on this investment in technology.

USTR will look for savings opportunities in other areas of the fiscal year 1994 and fiscal year 1995 budgets to finance these costs.

#### FISCAL YEAR 1995 BUDGET JUSTIFICATION

##### OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

##### SALARIES AND EXPENSES

##### APPROPRIATION LANGUAGE

For necessary expenses of the Office of the United States Trade Representative, including the hire of passenger motor vehicles and the employment of experts and

consultants as authorized by 5 U.S.C. 3109, [(\$20,600,000)] \$21,000,000 of which \$2,500,000 shall remain available until expended: Provided, That not to exceed [(\$98,000)] \$98,000 shall be available for official reception and representation expenses. (Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1994, Public Law 103-121).

#### SUMMARY OF FISCAL YEAR 1995 BUDGET REQUEST

[Dollars in thousands]

	1993	1994	1995	1994-95 change
Appropriation request .....	\$20,492	\$21,150	\$21,000	— \$150
Outlays (gross) .....	\$19,848	\$22,120	\$21,046	— \$1,074
FTE .....	161	168	168	.....
FTE overtime .....	5	4	3	— 1
Total .....	166	172	171	— 1

#### PROGRAM AND FINANCING

[In the thousands of dollars]

Program by activities	1993 actual	1994 estimate	1995 estimate
Trade coordination and negotiation .....	17,072	19,275	18,272
Geneva trade negotiations .....	2,511	2,346	2,278
CFTA panelist expenses .....	430	450	450
Total direct program .....	20,013	22,071	21,000
Reimbursable programs .....	1,026	380	380
Total obligations .....	21,039	22,451	21,380
Financing:			
Recovery of prior year obligations .....	— 381	.....	.....
Unobligated balance available, start of year .....	— 87	— 921	.....
Unobligated balance available, end of year .....	921	.....	.....
Unobligated balance expiring .....	26	.....	.....
Budget authority (gross) .....	21,518	21,530	21,380
Budget authority:			
Current appropriation .....	20,492	21,150	21,000
Permanent spending authority from offsetting collections (new) .....	1,026	380	380
Relation of obligations to outlays:			
Total obligations .....	21,039	22,451	21,380
Obligated balance, SOY .....	3,371	3,155	3,106
Obligated balance, EOY .....	— 3,155	— 3,106	— 3,060
Adjustments in expired accounts .....	— 381	.....	.....
Outlays (gross) .....	20,874	22,500	21,426
Adjustments to budget authority and outlays: Deduction: Offsetting Federal funds .....	— 1,026	— 380	— 380
Budget authority (net) .....	20,492	21,150	21,000
Outlays (net) .....	19,848	22,120	21,046

## SUMMARY OF OBLIGATIONS BY OBJECT CLASSIFICATIONS

[In thousands of dollars]

	1993 actual	1994 estimate	1995 estimate	1994-95 change
Personnel compensation:				
Full-time permanent [FTP] .....	9,375	10,361	10,210	- 151
Other than FTP .....	1,037	1,070	1,060	- 10
Other personnel compensation .....	406	362	325	- 37
Total personnel compensation .....	10,818	11,793	11,595	- 198
Personnel benefits: Civilian .....	2,261	2,358	2,322	- 36
Travel and transportation of persons .....	1,271	2,030	1,570	- 460
Transportation of things .....	109	101	60	- 41
Rent—GSA .....	1,352	1,390	1,436	46
Rent—Other .....	691	550	450	- 100
Communications, utilities, and miscellaneous .....	1,312	1,209	1,239	30
Printing and reproduction .....	265	477	250	- 227
Other services .....	1,947	2,023	2,068	45
Supplies and materials .....	249	250	250	.....
Equipment .....	764	270	140	- 130
Total obligations .....	21,039	22,451	21,380	- 1,071
Less reimbursements .....	(1,026)	(380)	(380)	.....
Net obligations .....	20,013	22,071	21,000	- 1,071

## Fiscal year 1995 budget request summary of financial changes

Fiscal year 1994 Estimated Obligations .....	\$22,451,000
Fiscal year 1995 Estimated Obligations .....	21,380,000

USTR projects total obligations between fiscal year 1994 and fiscal year 1995 will decrease by \$1,071,000. This net change is summarized below:

Increase or Decrease from 1994-1995	Amount of Change
Compensation and Benefit costs are projected to decrease .....	- \$234,000
Travel and transportation costs are projected to decrease .....	- 501,000
Space rental payments to GSA for Washington and for Geneva space expenses are projected to decrease .....	- 54,000
Telecommunication and rental costs are projected to increase .....	30,000
Printing costs are projected to decrease .....	- 277,000
Other services costs are projected to increase .....	45,000
Equipment purchases are projected to decrease in the ADP area ....	- 130,000

Total obligation change—fiscal year 1995 versus fiscal year 1994 Budget .....

- 1,071,000

The next section provides more detailed explanation of the estimated changes by object class.

## OBJECT CLASS SUMMARY

Personnel costs	1993	1994	1995
Compensation .....	\$10,818,000	\$11,793,000	\$11,595,000
Benefits .....	2,255,000	2,358,000	2,322,000
Total .....	13,073,000	14,151,000	13,917,000

Personnel costs are projected to decrease by \$234,000 from fiscal year 1994 to fiscal year 1995. This is a net decrease resulting from some fixed increases offset by reductions in other categories of expense. The major areas of increase are: the annualization of the January 1994 locality pay increase; the fiscal year 1995 pay

increase, and within grade increases. These increases are offset through staff lapse, lower terminal leave costs, and one less pay day.

#### *Travel*

Travel costs are expected to decrease by \$460,000. Fiscal year 1994 presented extraordinarily high travel demands for USTR. Several events contributed to this travel level: (1) Completing the Uruguay Round negotiations this past Fall and accession talks with former Soviet Republics and other countries; (2) intense bilateral negotiations through 1994 with the governments of Japan and China; (3) initiation of a major effort in the second half of fiscal year 1994 to strengthen bilateral trade with Latin American countries. In fiscal year 1995 the level of travel is expected to decrease and return to prior year levels. In addition, tighter management practices, increased use of frequent flyer programs, and better coordination and planning of trips will also help to hold costs down.

#### *Transportation*

Transportation costs are projected to decrease by \$41,000. In fiscal year 1994 USTR intends to reassign several employees between its Washington and Geneva Offices. In fiscal year 1995 fewer reassignments will be necessary.

#### *Rent, Communications, and Utilities (RCU)*

RCU costs are projected to decrease by \$24,000. USTR faces a 3 percent increase in the cost of its Washington office space (+\$46,000). This increase is based on information provided by GSA. This increase will be offset because of a Geneva office space consolidation (-\$100,000) effort resulting in a net cost decrease for space of \$54,000. In addition, the impact of inflation on telecommunications, postage, and equipment rentals and utility costs is projected to increase costs by \$30,000.

#### *Printing*

Costs are estimated to decrease by \$227,000. This decrease is tied to a reduced number of Federal Register notices being printed. In fiscal year 1994 USTR will have published two large notices pertaining to NAFTA and the Uruguay Round.

#### *Other Services*

The "Other Services" category includes funds for a range of services that support USTR program operations, and are generally provided by private vendors or other Federal agencies. Other Services funding requirements in fiscal year 1995 are estimated at \$2,068,000. For fiscal year 1995, USTR will decrease spending across several administrative services, as part of the President's Program to reduce Federal administrative expenses.

The \$2.1 million Other Services request also includes funding for a new Tied Aid program designed to give U.S. businesses an equal footing with foreign competitors in foreign markets. Under Tied Aid, the Export-Import Bank would give concessional financing to American businesses to counter the use of tied aid by other countries. USTR fully supports Tied Aid and views its purpose as closely aligned with our broader trade objectives.

The Other Services budget request also includes \$450,000 for continuing dispute settlement expenses under the Canadian Free Trade Agreement. Payments will be made for cases that were active on December 31, 1993. The Department of Commerce will continue to manage case costs. Under NAFTA, dispute costs for new cases after January 1, 1994, will be budgeted by the Commerce Department.

#### *Supplies*

Supply and material (general and ADP) costs are projected at \$250,000. This category remains at the current year level.

#### *Equipment*

USTR expects to lower equipment purchases from \$270,000 in fiscal year 1994 to \$140,000 in fiscal year 1995. This decrease of \$130,000 results primarily from a reduced level of ADP related purchases.

### ORGANIZATIONAL SUMMARY

The Office of the U.S. Trade Representative is responsible for developing and coordinating U.S. international trade, commodity, and direct investment policy, and leading or directing negotiations with other countries on such matters. The U.S. Trade Representative is a Cabinet member who acts as the principal trade advisor, negotiator, and spokesperson for the President on trade and related investment matters. Through an interagency structure, the USTR coordinates trade policy, resolves agency disagreements, and frames issues for Presidential decision. The

USTR, his deputies in Washington and Geneva, the Chief Textile Negotiator, and the Uruguay Round Coordinator, hold the rank of Ambassador. "USTR" refers both to the agency and to the agency head, the U.S. Trade Representative. There are two offices, one in Washington, D.C. and the other in Geneva, Switzerland.

The agency provides trade policy leadership and negotiating expertise in its major areas of responsibility. Among these are the following: all matters within the General Agreement of Tariffs and Trade (GATT) including implementation of the 1979 Multilateral Trade Negotiations (MTN) Agreements; trade, commodity, and direct investment matters dealt with by international institutions such as the Organization for Economic Cooperation and Development (OECD) and the United Nations Conference on Trade Development (UNCTAD); export expansion policy; East-West trade; industrial and services trade policy; international commodity agreements and policy; bilateral and multilateral trade and investment issues; trade-related intellectual property protection issues; and import policy. The agency is organized to accommodate sectoral, regional, and functional policy perspectives which are integrated into the decision-making process, and coordinated externally with government agencies, the private sector, and foreign entities.

Interagency coordination is accomplished by the agency through the Trade Policy Review Group (TPRG) and the Trade Policy Staff Committee (TPSC). The TPSC is the first line operating group with representation by senior officials. It is supported by more than 60 subcommittees and various task forces which are responsible for specialized areas and several task forces that deal with particular issues. If Cabinet-level review is needed, TPRG options are presented by the USTR to the National Economic Council, which is chaired by the President.

The USTR also serves as Vice Chairman of the Overseas Private Investment Corporation (OPIC), is a non-voting member of the Export-Import Bank, and a member of the National Advisory Committee on International Monetary and Financial Policies. There are several significant trade and related policy areas not handled by the USTR but which are followed closely by the staff: specifically, export financing, export controls, multilateral development bank lending, international fisheries, aviation and maritime policies.

The agency also has administrative responsibility for the Generalized System of Preferences (GSP) and Section 301 complaints against foreign unfair trade practices, as well as Section 337 and import relief cases under Section 201. The Omnibus Trade and Competitiveness Act of 1988 (Trade Act of 1988) transferred authority to the USTR to take action under Section 301, subject to the direction of the President.

The private sector plays a continuing role in trade negotiations through the mechanism of advisory committees. This advisory process was extremely successful during the MTN. Congress provided for continuation of the process in the Trade Agreements Act of 1979. The committees' role has been expanded to include advice on the operation of the MTN Agreements, on the development and implementation of overall U.S. trade policy, and on priorities for actions to implement such policy.

Primary objectives of the private sector advisory system are: to consult with the U.S. government on negotiation of trade agreements, to assist in monitoring compliance with the agreements and to provide input and advice on the development of U.S. trade policy. The advisory system is composed of a series of Committees with differing responsibilities. The Advisory Committee on Trade Policy and Negotiations (ACTPN), a Presidentially appointed committee, has 45 members from representative elements of the U.S. economy with international trade interests. Its mandate is to provide overall policy guidance on trade issues.

At the next level are the policy advisory committees in the specific areas of industry, agriculture, labor, defense, services, investment, and intergovernmental affairs. There are also 30 technical, sectoral and functional advisory committees, which are composed of experts from their respective fields. The Agricultural Technical Advisory Committees (ATAC's) and the Industry Sector Advisory Committees (ISAC's), provide specific sectoral and technical information on a range of areas affected by trade policy, such as automobiles, steel, wheat, aircraft or poultry. The Industry Advisory Committees provide cross-sectoral advice on customs valuation standards and on intellectual property rights.

In the Trade Act of 1974, Congress broadened and codified the Trade Representative's trade policy making and negotiating functions and established close Congressional consultative, advisory, and oversight relationships with the agency. In the Trade Agreements Act of 1988, Congress further clarified USTR's leadership role in developing and coordinating trade policy and serving as the President's principal advisor on trade. Throughout the life of the agency, there has been close consultation between the USTR and the Congress. Five Members from each House are formally appointed under statute as official Congressional advisors on trade policy, and addi-

tional Members may be appointed as advisors on particular issues or negotiations. Liaison activities between the agency and Congress are extensive.

The Omnibus Trade Act of 1988 provided negotiation and implementation authority for the Uruguay Round, and mandated extensive consultation and coordination by USTR in shaping U.S. negotiating objectives and strategy for the Round. The Act tasked USTR with significantly expanded responsibilities in administering unfair trade cases under Section 301, and changes in the Act brought a substantial increase in the volume, contentiousness and complexity of Section 301 cases. The Act created new negotiating programs in the areas of intellectual property and telecommunications, as well as a new reciprocity program for government procurement, coordinated by the USTR. The Act also expanded responsibilities for consultation and coordination by the USTR, substantially expanded the scope of the annual National Trade Estimates report on trade barriers, and mandated many one-time and recurring reporting responsibilities.

In Washington, the agency is organized into four types of activities. General support (General Counsel, Counselor, Congressional, Intergovernmental and Public Liaison; Public Affairs; and Administration), Bilateral Negotiations (Canada and Mexico; Japan and China; Europe and the Mediterranean; Latin America, Caribbean, and Africa; Asia and the Pacific; and APEC Affairs); Multilateral Negotiations (Uruguay Round, GATT Affairs); and Sectoral Functions (Industry; Services; Investment; and Intellectual Property; Environment; Textiles and Agriculture). The Counselor's office includes the office of the Chief Economist and Trade Policy Coordination, and responsibility for trade policy development.

The Geneva Office is organized to cover general GATT Affairs, Non-Tariff Agreements and Agricultural Policy and Commodity Policy and the Harmonized Code System. Special attention is given to textiles with one member of the staff is designated as U.S. Representative to the Textiles Surveillance Body. The Geneva Deputy USTR is the U.S. Ambassador to the GATT and to the UNCTAD on commodity matters. The Geneva staff represents the United States' interests in negotiations, and in other contacts on trade and trade policy in both forums.

#### FISCAL YEAR 1993 ACCOMPLISHMENTS

##### 1993 ACCOMPLISHMENTS

The Office of the United States Trade Representative concluded a number of trade arrangements this past year, providing increased access for U.S. goods and services to foreign markets and increasing protection abroad for U.S. intellectual property and investments. Since 1988, U.S. exports of goods and services have accounted for over 75 percent of U.S. GDP growth. However, there is more work to be done. Barriers to trade remain and we continue to have concerns about the levels of protection for our goods and service providers overseas.

The following pages highlight accomplishments by geographical and sectoral areas for fiscal year 1993.

##### *GATT Affairs*

Made substantial progress toward achieving final agreement of technical barriers to trade in the Uruguay Round. (Negotiations subsequently completed on December 15, 1993).

Restarted GATT Government Procurement Code negotiations in Geneva on the basis of the U.S./EC March 1993 agreement towards final code agreement. Launched a joint U.S./EC study on procurement opportunities in both markets for purposes of finalizing a Government Procurement Code Agreement.

Completed 15-year old Article XXVIII negotiation with India.

Completed Article XXVIII negotiations with Egypt and Turkey.

Completed accession negotiations and formalities for Paraguay completing a 20-year process.

Coordinated development and interagency approval of U.S. government positions for GATT Council TPRM reviews of Bolivia, the EC, India, Iceland, Israel, Turkey, Mexico, South Africa, Philippines, Egypt, Kenya, Korea, Malaysia, Japan, Brazil, Romania, Poland and for annual Council Overview of Developments in the international trade environment.

Monitored U.S. and Canada implementation of the U.S.-Canada Free Trade Agreement Chapter 6: Technical Standards. Achieved successful resolution of delays in full implementation by Canada in accrediting U.S.-based certification organizations.

*Section 301*

- As part of the "special 301" investigation of India, obtained commitments to improve copyright and trademark laws, strengthen IPR enforcement efforts and improve market access for motion pictures.
- Imposed retaliatory duties on Canadian beer because of restrictive provincial beer practices and continued negotiations to eliminate restrictions.

*NAFTA*

- Completed negotiations on the basic NAFTA text and related tariff schedules as well as supplemental side agreements on labor, environment and import surges.
- Obtained implementing legislation for NAFTA.
- Chaired exhaustive legal review and redraft of the final text of the agreement and led U.S. review and trilateral negotiations over Spanish and French translations.

*Bilateral:**Japan/China*

- Conducted annual Title VII review of foreign government procurement practices and identified Japan for discriminatory practices in construction services. No Title VII action was taken given Japan's action plan to open its construction market in January 1994.
- Conducted multiple rounds of bilateral trade negotiations in government procurement of telecommunications, insurance, medical technology and the automotive sector under the Japan Framework, with participation of other agencies including State, Commerce and Treasury.
- Signed the United State-Japan Framework for a new Economic Partnership this past July.
- Extended for one year MFN status to the Peoples Republic of China.
- Initiated formal consultations on opening the services sector in China, including specific services and investment issues related to U.S. companies in China and individual sectors, such as insurance, distribution and retailing, and computer software and telecommunication services.

*Latin America the Caribbean and Africa*

- Implemented results of the second Drug Summit as they related to policies on trade and investment issues.
- Completed a comprehensive IPR agreement with Ecuador.
- Led development and implementation of the United States strategy towards normalizing trade and investment relations with South Africa.

*Europe and the Mediterranean*

- Concluded commercial space launch agreement with Russia.
- Completed trade agreements with Kazakhstan and Belarus, providing reciprocal MFN treatment.
- Completed Bilateral Investment Treaty (BIT) with Czechoslovakia.
- Concluded procurement agreement with the EC that opened \$20 billion EC heavy electrical market to U.S. bidders.
- Concluded Spanish, Greek, and Portuguese accession to GATT Government Procurement Code rules.
- Concluded successful negotiations with the EC on oilseeds subsidies.
- Secured a bidding opportunity for U.S. provider of air traffic control systems in the Netherlands.

*Asia/Pacific:*

- Concluded beef agreement with Korea that substantially liberalizes access for beef for the 1993-1995 period.
- Concluded the President's Economic Initiative on standards which sets out steps that Korea will take in improving standards testing and other measures.

*Sectoral:**Intellectual Property and Environment*

- Directed the Special 301 intellectual property rights interagency review of Brazil and chaired the resulting bilateral negotiations.
- Directed Special 301 "out of cycle" review of Argentina and led bilateral discussions in follow-up to April 1993 decision to elevate Argentina to the Priority Watch List.
- Completed a comprehensive IPR agreement with Ecuador.
- Concluded agreements with the Philippines, Thailand, Taiwan and Hungary to resolve Special 301 problems.

*Agriculture*

- Reached the Blair House Agreement with the European Community and later obtained its incorporation into the Uruguay Round agreement.
- Assisted California table grape growers in export of table grapes to California; also assisted Washington state apple grower in exporting apples to Mexico.
- Negotiated Voluntary Restraint Agreements (VRA's) with Australia and New Zealand, to insure that 1994 wheat imports would not exceed the level which could require imposition of quotas.
- Completed negotiation of an agreement which provided the basis for terminating a Section 301 complaint against the European Community's third Country Meat Directive.
- Achieved a multilateral agreement on agriculture in the Uruguay Round negotiations.
- Obtained interagency consensus on Export Enhancement Program (EEP's) for the following products: wheat, wheat flour, vegetable oil, barley, barley malt, egg, poultry and pork.

*GSP*

- Conducted and completed 1992 GSP annual review, involving 108 product petitions, 12 worker rights' petitions, 3 intellectual property petitions, and one expropriation petition.
- Coordinated development of the Administration's legislative proposal to extend the GSP program for the short term (15 months), which was successfully attached to the Budget Reconciliation bill enacted into law on August 10, 1993.
- Coordinated interagency work on long-term GSP renewal, still ongoing.
- Conducted and completed eligibility of Ethiopia, Albania and Russia. Each country was designated as a "beneficiary developing country" for purposes of GSP.

*Textile*

- Negotiated new quota restraints with the Dominican Republic, Egypt, Guatemala, Hong Kong, Indonesia and Thailand.
- Concluded new bilateral textile agreements with Laos, Bahrain, Bulgaria, and Lesotho.
- Concluded a new anti-circumvention agreement with Lebanon.
- Extended through negotiation agreements with the Czech and Slovak Republics, and Mauritius.
- Extended the Multifiber Arrangement for one calendar year, or until December 31, 1993, without changes, to serve as a bridge mechanism regulating textile and apparel trade anticipating the conclusion and implementation of the Uruguay Round textile transition mechanism.

*Industry*

- Directed implementation of the 1991 U.S.-Japan Semiconductor Agreement.
- Monitored and directed implementation of U.S.-Japan wood products agreement to expand market access.
- Implemented bilateral agreement with the European Community on trade in large civil aircraft which provides strict limits on government development supports and prohibits all productions supports for such aircraft.

*Environment*

- Worked with environmental groups and Congressional staff to help secure Congressional approval NAFTA.
- Actively participated in development of Administration response to Pelly cases on whaling and relating to tiger bones and rhino horns.

*Intergovernmental Affairs and Public Liaison*

- Conducted extensive outreach in the business community and state and local governments.
- Initiated educational briefings and discussions with each governor's office, mayors, port authorities and airport commissions.
- Conducted briefings on the Round, NAFTA, the Japan Framework, and the G-7, for cleared advisors and the business community.

## SUMMARY STATEMENT

Ambassador KANTOR. Mr. Chairman, I am pleased to appear before you and the committee today. I always find this instructive and helpful, both in substance and also on the way in which we try to be responsible in handling our budget.

As you know, USTR's request is \$21 million for fiscal year 1995. It is \$150,000 less than in fiscal year 1994, which also includes, of course, the supplemental that we received in fiscal year 1994, for which we would like to thank the committee for its support.

Last year the President enjoyed the most successful year in trade in American history including: the Uruguay round and negotiating the supplemental agreements to the NAFTA and then working with the Congress to assure approval; reaching a market access agreement in Tokyo which engaged the Uruguay round and really led to its successful conclusion after 7½ years; and reaching a framework agreement at the same time with the Japanese, which we are still attempting to make sure the Japanese Government fulfills its responsibilities under that agreement, although they have fulfilled some parts of it, let me make sure to add.

We led a successful APEC meeting, Asian Pacific Economic Co-operation, forum in Seattle which for the first time established a trade investment framework for that organization.

As you know, Mr. Chairman, Asia is the fastest growing economic region in the world. Asian trade now for this country is 50 percent higher than our trade across the Atlantic. It is growing nearly in geometric proportions and, of course, is a very high priority for this administration and for the country.

We negotiated some key agreements by making sure U.S. trade laws were enforced and our trade treaties were adhered to, including a heavy electrical equipment agreement with Europe, which opened up a \$20 billion a year potential market for our companies; a construction agreement with Japan for the first time, which opened up architectural engineering and construction services in that country in terms of government procurement, which had long been closed and been the subject, as you know, of great controversy there and, in fact, criminal activity; and a telecommunications agreement with Korea.

And last, but certainly not least, I would highlight a textile agreement with China negotiated by Ambassador Hillman, which is, I think, of tremendous importance. It put a cap on the growth rate of textiles and apparel coming from China to the United States of zero for this year and only 1 percent growth in the next 4 years, where it had been growing at about 15 percent, and even more important, for the first time put a cap on silk apparel coming into this country, which had been taking the place of cotton apparel that we make so well in your and other States, and because it was so cheap, was literally displacing it within the market.

Included in the textile agreement, of course, Jennifer Hillman was able to negotiate 23 bilateral textile agreements in 1 year. That is an all-time record, and I am sure it will never be broken.

We also negotiated the Uruguay round textile changes which were important; reviewed the NAFTA agreement and help worked with that. That took a grand total of three people, which is quite impressive.

We have in 1995, of course, a very heavy agenda, not as visible as in fiscal year 1995, not as visible as fiscal year 1994, but nonetheless important. It is opening up markets in Japan and China. It is following up on the Uruguay round negotiations and making

sure we have implementation that is in the best interests of our country and that the World Trade Organization works effectively.

It is making sure that we begin a building block approach in Latin America looking toward open and expanded trade in the second fastest growing market in the world, which is south of the Rio Grande. As you know, below Mexico is 310 million people. They are growing market economies and growing democracies, and it is not only important economically for our country, but politically, too, because of the growing stability of Latin America to be a force in that stability and growing democracies.

We have some items with the European union which we will continue to work with, including opening up their telecommunications market. As you know, we sanctioned them in 1994, and we hope to open up that market—I mean, 1993. We hope to open up that market in 1994.

We have a problem with the so-called broadcast directive, which tries to limit the non-European content films, music, and other entertainment products and use in the European market. We hope to have a reorganization with general system of preferences known as the GSP program.

Our budget request for 1994 and 1995 really reflect these demanding times. Although we have increased responsibility in and trade increases in both exports and imports in this country, our budget goes from \$21,150,000 to \$21 million.

Part of that is because of the extraordinary costs we incurred trying to finish the Uruguay round; trying to finish NAFTA. We spent, it is interesting, \$270,000 alone, Mr. Chairman, just to publish the number of documents the public has a right to in terms of the NAFTA. That \$270,000 for another agency, of course, would not be a major expenditure. At USTR, every penny becomes a major expenditure for this agency.

As you know, we had 173 positions when we came into office, 11 of which are student positions, so we really had 162. We cut it to 157, with 11 student positions, or 168, so we have cut employees at USTR. We have cut our administrative budget in a number of ways to try to save money in order to carry out our mission with a very small budget with an increasing number of responsibilities in trade and also with our renewed efforts to really enforce our trade laws and our trade agreements.

I would like to make just three concluding comments: First, I would like to thank you for your particular help, both in 1993 and then in 1994, two supplementals. We could not have, frankly, survived without them, and I think that they were in the best interests of our country. I appreciate that greatly from both my professional standpoint and administrative standpoint, but also personal standpoint.

Second, I want to restate my opinion: The American taxpayer gets a huge bang for the buck, and no better bang from these who work for the USTR. I have never met, in public or private life, and I have been almost all my career, as you know, in private life, Mr. Chairman, a harder working group of people who are more dedicated to what they are doing. We may agree or disagree sometimes as to what we do, but they do it with dedication and with a zeal

that I think is commendable. They do not get one-half the credit that they deserve for what is accomplished.

This \$21 million investment in the agency's budget will pay dividends for American business and American workers for years to come.

This concludes my brief remarks, and I look forward to your questions.

Senator HOLLINGS. Well, right to the point, you have worked admirably, there is no question, like Jennifer Hillman getting those 23 agreements, yourself, in getting all the other agreements and all the progress you have made. One thing you have to say about the Clinton administration: They are smart and they are hard working. Now, we might come with different approaches. I get a little amused when you point out you have spent \$270,000 for NAFTA documents. My God. We have spent the Treasury, the U.S. Treasury to get the NAFTA agreement passed. Come on. There is \$10 million over here for Congressman Pickle's center and x million over here. I mean, we had your 23 votes beat by Tuesday morning, but by Tuesday evening, you bought the store, I mean the whole Congress.

If you do not like my reaction, I just want you to understand why I get amused.

Ambassador KANTOR. I thought I could divert the committee's attention to something.

Senator HOLLINGS. \$270,000 is not—

Ambassador KANTOR. I can see I am never very good at doing that with the chairman. So I am just going to quit trying to do that.

Senator HOLLINGS. Mr. Ambassador, I have a most difficult time because people get categorized here in this game up here in Washington. In that light, you just categorized on textiles, and, "That is all the poor Senator is interested in; that is all he knows about, and the rest of it is eyewash and do not worry about it."

The truth of the matter is that we have watched. I am a competitor, and I have watched this trade development over years on end, and I come from a witness before the old Tariff Commission, U.S. Tariff Commission. They did not call it trade back in the fifties. Attesting at that time when Tom Dewey ran me around the hearing room for two afternoons representing the Japanese. The argument at that time, of course, was, "Look, what do you expect of these emerging economies in Europe and post-World War II out in the Pacific rim? Do you expect them to make airplanes and computers? Let them make the shoes and clothing and the lower skill products, and then we, the U.S.A., will make the computers and the airplanes."

That picture has developed. We were worried about 10 percent of American consumption being represented in imports. Now two-thirds, over 66 percent of the clothing in this room is imported and 86 percent of the shoes. You are looking at a manufacturing base. We are very competitive in these States like Tennessee. Mr. Ambassador, you have got 97 Japanese industries there in your home State. I have got about 49 in South Carolina. I have got 100 German industries in my State.

We know about competition and creating jobs. Some of these children that run around on the floor of the Congress we have got to get competitive, competitiveness, you know, like we have just created the concept. You do not last long in the game down in our old backyard unless you are very competitive and making the economy attractive by providing the skills that they all think they are going to invent up here.

And yet we are losing right on down the list. You can see it. I mean, it is a lack of inner city jobs. Back now in your State of California, there are 93,000 textile apparel jobs in downtown L.A., and in 3 to 4 years, they will be in downtown Tijuana or wherever else down in Mexico, because minimum wage is 58 cents an hour there and there are no fringe benefits or safety or environmental regulations. Average prevailing wages in the apparel industry is \$7 an hour and all of the restrictions like OSHA apply. So the competition and the policy you and I make at this level is what drains us of our industrial backbone.

When we come to the negotiations, specifically now, with Japan what I worry about, and noticing the diligent way you folks are working at it, that we are talking to the wrong crowd. We are demanding a wrong policy. The reason I say the wrong crowd is, as you well know, Congress or the Diet in Tokyo does not control anything. It is MITI and the ministry of finance, and the political leaders that you talk to really do not have the clout to carry forward anything.

And as far as the wrong crowd, I read a lot and watch those who study Japan. I take it you have read Carl Von-Wolfen's article in Foreign Affairs last fall analyzing just this about negotiating with the wrong crowd in Japan and then making the wrong demands.

When we say you have got to have a certain percentage of the market of, let's say, cellular phones, that we ought to have by this time next year, 5 percent or 10 percent or whatever the commodity is—if I were President of this country, a next to impossible time carrying out that demand on me. How in heaven's name would I get the economy of the United States to purchase a certain percentage?

We are using the wrong tools. There are a lot of other good tools to be used. We ought to do like the Europeans, which is just almost like Roosevelt in the days of the Depression. In order to keep the banks open, he closed the doors; in order to save the farms, he plowed under the crops. In order to remove a trade barrier, you have got to raise a barrier and then remove them both. Market forces, not political conferences, work. You have got to make it in their economic interest in Japan.

I have been through these. I can see us in the fish room, they called it, in 1961, with President Kennedy on textiles, talking the same way to the leaders and about our special relationship. But, we would shake our heads, "Now we had an understanding." You are into a heck of competition right here in this city. Pat Choate has written a book about the "Agents of Affluence", and he got 100 law firms, consulting groups paid \$110 million. The constant salary of the House and Senate is \$68 million. Sometimes it seems that the Japanese are better represented in Washington than the people of America.

So they know exactly this exercise. You come to town and another administration comes to town, and you go through the same thing and the same headlines. And we do not get it because we just do not do like the Europeans do. They know how to really enforce their laws on the one hand and the sanctions against any kind of Japanese trade and get their attention. When we passed the textile bill in 1982, I guess it was, there was a \$4 billion deficit in the balance of textile trade in Europe and in the United States. They enforce their bilaterals and it is less than \$1 billion in Europe. We have gone to \$26 billion since that time, over the last 10 years.

These are the kinds of things that run through our minds here in Congress. We are not politically getting a headline bashing Japan because, heavens above, if I was the Emperor, it is working. I would run it the same way. I am not bashing Japan. I am bashing you and me and the policy itself.

For example, here are some of the things we could do. Now, with respect to the dumping code, let me see. I can get to that one. I had a list here, and I wanted to go down some of the things that should be done. We had the free trade zones. I do not see that on this list, but I can remember some of the things.

For one thing, on these free trade zones you will find that we are trying to enforce a certain amount of domestic content as part of the policy, and then we come around here and put in a free trade zone for the foreign policy to come in, and we grant that willy-nilly. Free trade zones were designed and developed in order to bring in the parts to get the assembly jobs for export, not for domestic consumption.

But there has been a violation. If you could get on the Secretary of Commerce and say, "No more of these free trade zones" for all of these local "supe' em up" groups who, "I have got an industry coming and all I need is a free trade zone." They have got free trade zones scattered hither, thither, and yon frustrating the actual policy and intent of a free trade zone. That is No. 1 you can get with respect to that group. I know you agree with me on that.

What about transfer of pricing? Don't you remember the President when he campaigned on transfer of pricing? And there have been articles. I will not belabor you with the articles and everything else like that, but why not get IRS?

These are things to make the Japanese, not to go to a conference and wear you out flying back and forth and, "We told them, no, we are not going to give," and "No, we are not." You do not have to do that. Take your own laws and your own policies and enforce them. Just get them together. Take the free trade zone, put the IRS on transfer of pricing. They are highballing all of those parts coming into these free trade zones in order to show they do not make any profit. I mean, it is a wonderful exercise. Candidate Clinton campaigned against it, but President Clinton has not moved on that score. We have not done a thing about it.

No. 2, the best thing about dumping, these dumping cases, we did start one in the early eighties on semiconductors. We can do that with respect to automobiles, particularly with the devaluation of the yen now. I mean, we can move. In fact, we had before our committee the three heads of General Motors, Ford, and Chrysler.

Chrysler and Ford were ready to go, and General Motors finally reneged.

What is the matter with the Secretary of Commerce? We know those automobiles are being dumped. There is not any question about it. They would know. I mean, if the lawyers downtown are telling the clients back in Tokyo:

Do not worry. We are going through the same exercise. This fellow Ambassador in Canada is a nice fellow and he is making the same sounds Ambassador Bob Strauss made, Carla Hills made, that they all made through before, and they all go through the same blooming exercise and nothing happens; so do not worry about it. They are not serious. They are not enforcing any dumping laws. They are adulterating the free trade zone policy. They are not going on transfer of pricing with the IRS.

You could easily do that, a dumping case. Don't you think we can start a dumping case on automobiles and automobile parts?

#### JAPANESE FRAMEWORK

Ambassador KANTOR. I think there are a number of things we can do. I think the one thing I would not be described as is nice in Tokyo. I have been described as many things. That is one thing I would not be described as.

If I could state a couple of things, Mr. Chairman: First of all, in terms of—we have not asked for any market share whatsoever in these framework negotiations.

Senator HOLLINGS. I am reading it wrong in the newspapers?

Ambassador KANTOR. There were three parts to the framework: One was global agreements, which the Japanese have cooperated with us on population and other questions, AIDS and so on.

The second was macroeconomic stimulus, which they have taken a step, but not a very large one, toward trying to stimulate the economy, but I would only indicate that as soon as they decided they would give a rebate, which is not as big a stimulus, as you know, as cutting the tax rate, they decided they would have to raise the so-called social tax to pay for it, the ministry of finance, and you are correct, very powerful, the most powerful, one of the most powerful forces in Japan, is very conservative in that respect, and, of course, has stopped the Hosokawa Coalition from moving forward. That is No. 2.

But No. 3 were the sectoral agreements, which were the main factor for the breakdown of the talks. The fact is we wanted three things: One, a goal, which was written into the framework which the Government of Japan signed, which said increased access for foreign competitive products, not just United States products, foreign competitive products. They would not even agree to that.

Two, a whole set of deregulatory items which, in fact, we had a large agreement on in each of the four sectors: Medical technology; telecommunications, that is in government procurement; auto and auto parts; and insurance. But last came the most controversial part and the part we read about in the newspapers, which has not been correctly, I think, articulated, unfortunately in the public press.

What the United States wanted to do was to stick to the framework and the Japanese to adhere to their responsibilities. All they called for was objective criteria, quantitative or qualitative, or both,

which were measures of success. In other words, we wanted a speedometer, not a speed limit. We did not want market shares; we wanted a trend line. We wanted to say, "Is this agreement successful? Are these deregulation measures opening up in these various critical sectors?" So that is to just make sure the record is clear as to what the agreement said and what the United States was trying to adhere to.

But No. 3, I think something should be made clear: Immediately upon the failure of those talks we were faced with a decision on the 15th of February whether or not to begin the sanction process, which meant we had to find Japan in violation of the cellular telephone agreement for their actions in locking Motorola out of the Tokyo market of 60 million people, as big as the market as from Washington to Boston, which they had done, and they had violated three different commitments on the part of the Japanese Government and the Japanese agent in this, which was a company called IDO, and we did that. On the 15th we announced it, and we are going to publish a list, as we have to under the law, within 30 days of potential retaliatory items. We will hold public hearings for public comment, and we are moving on that item.

The President is also considering, which we have made up for 4 weeks, and is considering a number of potential actions, which I will not characterize, but they would not be entirely different from what you have just—some of which you have stated here today, that we will follow in order to open those markets up. This is not a matter of bashing anyone, as you correctly state. It is a matter of opening Japan's market.

Now, where we might disagree is that, and I will use Smyrna, TN, as an example. Opening Japan's market is critical. It is the second largest economy in the world. They import less than one-half of manufactured goods to gross product than any other developed country in the world. If they just imported the same percentage as the United States in manufactured products they would import another \$168 billion in manufactured goods and, in fact, would make a huge dent in their trade surplus, not only with the United States, but with the world, which would have a very good effect on the world economy.

So we need to open their markets for our goods. In Smyrna, TN, Nissan has a plant, which is the largest single automobile plant in North America under one roof, and there are a huge number of suppliers, as you know, that have gathered around in that area employing thousands of my colleagues I grew up with in Tennessee.

What we do not want to do, of course, is to lock our markets down and kill foreign investment in our country, whether it is in South Carolina or Mercedes in Alabama. What we want to do is open a market in Japan which is closed not only to the United States but to the rest of the world, which would have a positive effect upon global growth. We are going to do it. This administration is committed to it, and if it takes some very tough actions on our part, this President is ready to proceed.

Senator HOLLINGS. But it is not tough actions; it has got to be realistic actions. You and I are probably trying to say the same thing, but you use goals. I am dismayed with goals.

This Congress up here in Washington has got all kinds of goals now in education. Heavens above, everybody, reading, writing, arithmetic, they want higher SAT scores and everything else. They do not need Washington if they give them money for the teachers. I can tell you how to do it: Out there at Rancho Mirage, CA, they pay a teacher \$70,000; I would pay in the inner-city of Los Angeles \$140,000. I would double the salary. You would get the best teachers in downtown Los Angeles. You will really get some results and quit wasting all this money on empowerment zones and enterprise zones and all these fuzzy Washington needs just trying to identify hit-and-run driving. Identify with the problem; goals for education; goals on trade, and say, "Look what we done done."

How are you going to open markets? You have got to raise a barrier to make it to their economic interest. We have not made it in their economic interest. Now, we have been playing to their political interest, saying, "Look, we rebuilt you after World War II under the Marshall Plan. Why aren't you grateful and why don't you open up to a certain extent, or a goal, or a measure?" I think that is wrong; it doesn't work.

Whether we sell two Motorolas or 200,000 Motorola cellular phones, it is up to Motorola and the market over in Japan. I can see they are tongue-in-cheek about managed trade. They are the masters, masters of managed trade, and said, "We do not want to go with managed trade."

Again, we can get a dumping case started if we would enforce our own laws. I see it in Texas. All we ever wanted to do was to enforce the bilaterals. Incidentally, I mean, in China, yes, Hillman did a wonderful job there, but what happened is, Customs told us there was \$5 billion in transshipments. We indicted them for \$2 billion, and you compromised at \$1 billion. So if I am doing business in China I am saying, "Well, the policy is you can get by with 80 percent of it. They might catch you on 20 percent, but that is a pretty good deal for transshipments, so we will continue to transship apparel the best we can."

You do not have to do much of that. Shanghai Textiles has already bought 100,000 acres down there in your NAFTA, in Mexico. You are giving them the free trade, the duty-free platform to ship into the United States. So they will not have to worry too much about that.

But back to the point, we have got to get more realistic. If you find out you can get by with 80 percent of it; if you find out if you get a little goal and we will agree on another goal and give a little bit to Motorola, that is really not breaking that system, and Japan is a tough system to break. But the Europeans have broken it. They know how to do it. They know how to deal. If you think it is tough to get a car inspected in Tokyo in only 4 months, in France you cannot buy a 1994 Toyota until January 1, 1995. They take 1 year to inspect it. They know how to play the Japanese game, "We will play it by your rules," and that is how they handle it.

Whether we like it or not, that is the only realistic way to win in this global competition that they are talking about.

Ambassador KANTOR. You and I do not have any disagreements. Let me just say in this administration, we do not do everything right. It may shock you that I said that, but we try to do as much

right as we can and try to listen. What we did in textiles in China is historic. We literally put the lid on those transshipments and—

Senator HOLLINGS. That is a start, I agree.

Ambassador KANTOR. And the textiles and apparels coming in, we stopped that growth. What we did with heavy electrical equipment in Europe is open up a \$20 billion market. What we did with construction in Japan, and Europeans never did, and that is open up those services for the United States and other companies for the first time in history. We opened up a rice market in Japan for the first time. It is small, and it is going to grow, but it is a beginning. It was a historic first. We even opened one in Korea. We opened a telecommunications market in Korea, which had been closed to our companies, and AT&T immediately received a contract there.

So not that we have done everything right, but I think we have done enough right and we are on the right track. I think one-half my job, as I said in my confirmation hearing, is to enforce the law and enforce our treaties. If we just did that we would make some great progress.

Obviously, the President's leadership and with the great support of Congress, we got the Uruguay round and the NAFTA, which I know is not your favorite subject, and I think we got a good start on APEC, and I believe that we have enormous, enormous potential in putting together Latin America and Asia using the United States as a hub.

I think you are right; I think you and I are not—we say it in different ways, but we are going in the same direction. We have got to make sure that we open up these markets around the world because U.S. companies have never been more competitive and productive. U.S. workers are the most productive workers in the world. That is why all these companies are moving here, because they know that. We are the low-cost producer now in the world.

So we have never been better able to compete, and our job now is to open these markets around the world to make sure we can get those products into those growing economies.

#### SUPER 301

Senator HOLLINGS. Then super 301. Now you mentioned GATT. I mentioned the free-trade zones and the matter of the dumping cases and the matter of the transfer of pricing. What about super 301? You wrote us a letter back in June of last year that before the end of the year you would have the reenactment of a super 301. You support that. Do you still support that?

Ambassador KANTOR. Absolutely.

Senator HOLLINGS. Can you do it under GATT?

Ambassador KANTOR. We can do it under GATT, 301. All super 301 is, as you know, is a procedural mechanism.

Senator HOLLINGS. I know, but have you gotten GATT permission to enforce it?

Ambassador KANTOR. Well, not permission. We have always under 301—now, if and when 301 is reinstituted, and we support it, what that does is it provides automaticity to the procedure to begin the process of determining whether someone has carried out either unfair trade practices or is violating the trade agreement.

Then, of course, you have to go to 301 for your remedy and then, of course, 301 requires you go to the GATT first, assuming it is a GATT-covered item or a GATT-covered country.

Now, if it is not, we can act unilaterally.

Senator HOLLINGS. The World Trade Organization has got to approve it, though; is not that right?

Ambassador KANTOR. You do not have to approve it if it is not a GATT-covered item or GATT-covered country, and under the new disputes settlement mechanism, frankly, of the World Trade Organization, when it goes into effect, Mr. Chairman.

Senator HOLLINGS. But if it is a GATT—

Ambassador KANTOR. It is a better mechanism. It allows for cross retaliation and it is in the U.S. interest. It is a very good settlement mechanism, much better than the current GATT mechanism, which has been frustrating to all of us.

Senator DOMENICI. That is in the new GATT?

Ambassador KANTOR. Yes.

Senator DOMENICI. Excuse me.

Senator HOLLINGS. That is all right. Because I have heard otherwise, and I wanted to get that clear as to what is in that GATT with respect to that.

Ambassador KANTOR. That is the majority, but there are certain countries and certain practices. For instance, Karetzu practices in Japan would not be covered even under the new World Trade Organization and would be subject to our 301 regardless of the implementation of the new World Trade Organization. That would just be one example.

China which is not, of course, a member of GATT and on today's facts, would not be a member of the World Trade Organization, although they want accession to it, would not be covered also. Any act or practice in China would be subject to our 301.

Senator HOLLINGS. But GATT covers, you know, almost anything—intellectual property and textiles.

Ambassador KANTOR. The new World Trade Organization will cover a lot more.

Senator HOLLINGS. And that is what I mean, and that is who we have got to go through rather than super 301. That is the misgiving: You say, "We approve," and "Fine," and, "Go ahead, Congress. Let's give us a super 301," but then in the other minutes you say, "By the way give us GATT," and the World Trade Organization you have got to go through them once you sign that.

Ambassador KANTOR. Yes, sir; if the dispute settlement mechanism, Mr. Chairman, was not as effective as it is, if it did not have time limits and time limits on appeal and did not allow, and forbids for the first time any country under GATT now, you know, can block a ruling. It cannot under the new World Trade Organization, and allows for cross retaliation. Let me take you to intellectual property, which you mentioned, which is a very important item for our country. It is computers and pharmaceuticals and entertainment products where we do best in the world. We do well in many things, but that is what we do best.

Under this, because we are such a large exporter and we import by comparison so little, to win a case in the new World Trade Organization would not be very effective if you could only retaliate in

that sector. What you can do under the new World Trade Organization rules is cross retaliate into another sector. Say it was a country where textiles and apparel or some other item was their most important item coming into the United States; you could cross retaliate in that sector. It is a much stronger device, and so we are much more comfortable with the World Trade Organization than we have been with GATT in using that mechanism.

## CIFUS

Senator HOLLINGS. Jump then to CIFUS. You are a member of that, I think, that committee on foreign investment, and should not CIFUS be more carefully examining the sale of U.S. high-tech companies?

We have got Japan firms nit-picking us. This is out in your backyard in California. Another heading, "Japanese Target U.S. Computer Firms". Over the past 5 years Japanese companies have made close to 140 acquisitions in United States computer and related industries, right on down to article after article. We talk about it, but they are not doing much there at CIFUS either.

Ambassador KANTOR. It is a concern. It is something we ought to look at, but I think it should not escape our attention that whether it is high definition television or semiconductors or computers or massive parallel processors or personal computers, we are now leading the world. As you know, for years we were not the largest semiconductor maker in the world; Japan had passed us. We now have retaken that lead, given the hard work by an industry, and I think policies in two administrations, or three administrations, which have been very helpful. In massive parallel processors, we do not have any equal in that area, although I would say there have been four procurements in Japan in the last 6 months of those, and we have only won three of the four. We cannot understand what happened to the fourth. It is always interesting.

In personal computers and computers, even in the Japanese private market, we have 40 percent of the Japanese private market in computers. What is interesting about that fact is in the government procurement market, Mr. Chairman, we have four-tenths of 1 percent.

So where there is a willingness to make a private decision and where the Japanese ministries stay out of the decisionmaking, we do quite well. Motorola has one-half the cellular telephones in Japan outside of Tokyo in Nagoya because they are allowed to compete. We have never been in a better position to compete in more areas than this. We have an administration and you are about to hear from the best SBA Director in American history. He is from your part of the country. That is why he is so smart, Mr. Chairman.

He will tell you how we are trying to bring small- and medium-sized business into this process in order to make sure that those creative enterprises who are doing so well also become part of this international, global competitive surge that we are experiencing in this country.

Senator HOLLINGS. Well, let me jump to one question.

Senator DOMENICI. Do you mind if I ask a question, Mr. Chairman?

Senator HOLLINGS. Sure. Please, go ahead.

Senator DOMENICI. On their government procurement, Mr. Kantor, you mentioned four-tenths of 1 percent versus 40 percent in the open market there.

Do they not have access, their products, to our Government? I see all these Japanese products around here. I assume the American Government buys all this.

Ambassador KANTOR. They do, and we are looking at that agreement. We are going to have—

Senator DOMENICI. I am not trying to say we should not, but it sure ought to be a bargaining chip, it seems to me. That is one we could procure them out of. Congress could write that in.

Ambassador KANTOR. We believe in this administration and in what you are implying. If trade is a two-way street—

Senator DOMENICI. Absolutely.

Ambassador KANTOR [continuing]. There ought to be comparability. Where there is not and where there are unfair practices we ought to take the action, as we did in construction, as are moving in the cellular telephone agreement. And I think the chairman was saying that, too. But it has opened their markets. There may be some philosophical difference with the Chair here.

I am a little worried when we start shutting down our markets, because what we are doing is shooting ourselves somewhere below the knees by doing it. But we ought to be very tough about opening not only Japan's markets but markets in Thailand or Taiwan or in China, depending on the product, or in Europe, where they try to inhibit the sale of our audio-visual products in television because they want so-called European content products.

That is where we have to be vigilant and we have to be resolute, and this President is ready and willing to do so, and by the way, I think we have bipartisan backing in the Congress in that respect.

Senator HOLLINGS. Let's see. We have got where you can repair the 15 percent disadvantage immediately in global competition. You have got to take the lingo that you hear around this town to make sense, and on that score in a dumping case, and we have had this out and we had a 93 margin vote, bipartisan vote in the U.S. Senate. Back in 1988 they called it "veto bait", but we will have it again, and we will see how they vote.

What happens is, in trying to determine dumping, the domestic price and the exported price here in the country, in other words, that cut that you have got right there, we find out how much they are selling cups back in Tokyo and then have them ship them here to the United States, how much we are selling them for here. All GATT countries subtract from the Tokyo price cost, insurance and CIF.

They do not add on in determining that in-country, in-U.S. price the exporter's sales price offset, which is the sales promotion. We had that in the *Smith Corona* case, and the Supreme Court said the language was vague and the Secretary of Commerce could determine, and he has not determined arbitrarily.

So the court said, "We cannot find any arbitrariness in its decision and the language was vague. We could come down either

way." All GATT countries come down to not including the exporter sales price offset and all the promotional costs, and then you go to the *Timken* case, which was the profits, and we take, not only adding on to make sure it is not dumping and getting a higher price, we add on the profits under the *Timken* case.

Again, the court said that could be done just by administrative action right by the Secretary of Commerce. Now, the argument was, and you have just completed GATT, "Wait a minute. We are going to GATT and we are going to get that cleared up, and we are going to bring them all around, and they are all going to go our way."

False. We have all gone their way except the United States. Now you do not have the GATT argument that they gave me and have been giving me now for a good 15 years in both administrations. Why not take administratively with the Secretary of Commerce so that the Japanese know he is serious. If I am the lawyer downtown for the Japanese I am saying:

Hosokawa, don't worry. They are not enforcing the dumping. CIFUS is just a fluff organization and not reviewing that. They are certainly not bringing any dumping cases, and in trying to determine dumping, they are giving us a 15-percent advantage by including the sales, promotion, TV, and all the salaries in the profits. So if they are not enforcing their own policies and written into formal law here, why should you get excited about a little Motorola in cellular? Give them a little bit of cellular. Let Motorola go ahead and sell a few things and we will wait for another administration to come to town.

And there is a little bit here and a little bit there. That is not trade. Why do we do that?

Ambassador KANTOR. First, you may have awhile to wait for another administration, but that is for another discussion.

Senator HOLLINGS. I hope so. But you all have got to get serious about the dumping practices and the policy here. You do not have the GATT argument anymore. They have affirmed as GATT informed me, and why not go ahead now that we know it is in GATT conformists and remove that disadvantage to ourselves?

Ambassador KANTOR. It is fascinating. I think we have an opportunity here under article 2.4, the new antidumping agreement in under the World Trade Organization, and I will read it to you and give this to your staff. In both cases where it involves the exporter, the exporter sales prices, one thing you are talking about is, "How do you deal with profits under that?" And then the second, of course, as you mentioned, the new antidumping agreement provides that:

A dumping margin of fair comparison shall be made to the same level of trade normally ex-factory level by allowance shall be made under each case on its merits for the difference which affect price comparability.

It is possible that, not probable, that article 2.4 would permit dumping margins for ASP sales to be calculated by removing all the indirect expenses from the U.S. price. It is very interesting.

So for the first time we have other language on ASP for profit, so we have for the first time now in this new World Trade Organization language that we can point to that might, in fact, go directly to the concerns you have had for years.

Senator HOLLINGS. We do not have might have to do it. We can just do it like they do.

Ambassador KANTOR. This reflects, of course, as you correctly stated, the Europeans have preceded.

Senator HOLLINGS. Right.

Ambassador KANTOR. What I am saying to you is: I think it is something we should look at carefully and work with you on and I will talk to Secretary Brown about that. As you know, we do not administer the dumping laws, but it is something of some interest to us that this language is there, and I think it has some possibilities.

Senator HOLLINGS. I am making progress. I will give one more question.

Ambassador KANTOR. We have got to sit here long enough, Mr. Chairman, for you to make more progress. [Laughter.]

#### BUDGET WAIVER

Senator HOLLINGS. Senator Domenici and I are always interested in these budget waivers, because we put it in Gramm-Rudman-Hollings, and it would require a budget act waiver to implement the Uruguay round because the Wall Street Journal says that that is what you are looking for, that the tariff revenue in 1994 is \$18 billion; that you are cutting one-third to one-half, let's say one-third, \$6 billion. Over 5 years that is \$30 billion. Use a minimum figure of \$15 billion to try and sneak by. You are asking for a budget waiver?

Ambassador KANTOR. No, sir; we have not asked for any waiver. It is always fascinating to me that a new resident here in the Nation's Capital that it is impossible to have a meeting anywhere in the White House that does not appear in the newspapers the next day, frequently not correctly reported, but always there. There were a number of—

Senator HOLLINGS. I wish they would report it. I am going over there to dinner on Thursday night, but they will never report it. [Laughter.]

Ambassador KANTOR. Mr. Chairman, if we get enough people in that room, I guarantee you it will be reported. [Laughter.]

We understand that it is about \$13.9 billion over 5 years.

Senator HOLLINGS. You bring in the fact it is going to cut tariffs. No kidding. You will get \$18 billion.

Ambassador KANTOR. It is going to cut tariffs \$14.9 billion over 5 years.

Senator HOLLINGS. Over 5 years?

Ambassador KANTOR. It will in Federal revenues—two studies have now been done—over \$40 billion in the same period of time.

Senator HOLLINGS. Wait a minute. You are going back to Reaganomics; the laugh occurred internationally. You are going to have growth, growth.

Ambassador KANTOR. I have not seen Arthur Laffer in about 5 years, Mr. Chairman.

Senator HOLLINGS. That is what they told me in 1981, and the thing that grew of interest to me and me both is the debt: It has gone through the ceiling. Now you are going to give us growth.

Ambassador KANTOR. We cannot count that though. On the PAYGO system, it does not count it. We are looking for offsets to match that \$13.9 billion.

Senator HOLLINGS. How are you going to get the offsets? You are going to get offsets, and it is not going to come from growth, growth, growth. We have got candidates running all over the country on, growth; growth; growth.

Ambassador KANTOR. It cannot. It cannot under rules, and we will not do that. We have to, as we did in NAFTA, come back with real offsets.

Senator HOLLINGS. So you are going to come back with real offsets?

Ambassador KANTOR. We have to or we have got to—

Senator HOLLINGS. You are giving us real figures. You say \$13.9 billion over 5 years?

Ambassador KANTOR. Over 5 years.

Senator HOLLINGS. I think that is wrong. That is interesting to get these offsets and not a budget waiver, but in any event, I will yield to my distinguished ranking member.

Senator DOMENICI. Thank you, very much, Mr. Chairman.

I am not going to take a lot of time because I want to interrogate the SBA Director, and I have to go to see the Secretary of Treasury.

Ambassador KANTOR. Thank goodness, Senator. He is smarter than I am, and he is better looking.

Senator DOMENICI. You are doing great. That is why I am going to leave you alone. Let me tell you, however, I wanted you to know that last night at 6:15 or 6:30 I made a, for me, not too forceful, but nonetheless rather pointed speech about the Reid constitutional amendment. I wanted you to know that I attributed to you the notion that under the Reid amendment we could buy the Brooklyn Bridge.

Senator HOLLINGS. Yes, sir, we could sell it.

Senator DOMENICI. We would buy it or sell it. It would not matter.

Senator HOLLINGS. We have got it now.

Senator DOMENICI. Whatever happened there does not affect the budget.

Senator HOLLINGS. Capitalize everything.

Senator DOMENICI. Capitalize it.

Senator HOLLINGS. Capitalize this table and the room and everything else and we are not spending enough.

Senator DOMENICI. Right. I also told them they were having trouble finding how large a capital budget there was; somebody thinks \$46 billion, some people think \$160 billion, but we will work all that out under the constitutional amendment.

But having said that, Mr. Kantor, let me just make three points, and maybe you will want to address them. If not, I feel compelled. Frankly, I believe 8 or 9 or 10 years ago when we were arguing about the computer chip agreement with the Japanese and we had an exchange of letters, I happened to have gone to Japan with a large group, 11 Senators, and it was my job to present that argument to their big chamber of commerce. It was huge, the guys that run all the big companies, and I agree with you that unless you get agreements that can be measured, and I gather that is what you are talking about in terms of criteria for compliance, unless you do that it just seems to me that you do not have anything, because

they do not speak with one voice. Everybody has a different version when it comes to interpreting letters. I think that is point No. 1.

But point No. 2: You know, Fritz and I have been both here awhile. He has been here a little longer than I, but when we used to argue with the Japanese and our products were not very good and our products were too expensive, they made a pretty good point.

But I believe you can now take a great deal of force and strength with you because I think the world is saying that our products are as good as theirs. I think in automobiles it is obviously proven, that they used to say that the reason Americans bought all their cars, they were so much better and the reason the Japanese did not buy ours was the cars were not any good. As soon as we make cars with the steering wheel on the right side, which I guess we are about to do, they will not have any excuses over there, and frankly, the idea that we do not make good products is gone.

I hope we keep that quality here in the United States. Frankly, I believe our companies are determined to do that and the unions and working people have decided that they are going to work together. I think that is tremendous. You have marvelous arguments about manufactured goods exported to their country versus imports to America. Their arguments do not hold up. How we go about enforcing things is tough; I understand.

My last point is: What concerned me as you went through the final days with the Japanese leaders, it almost seemed to me—and you correct me—but it almost seemed to me that we did not have a game plan. I mean, obviously, we knew they did not agree with the so-called criteria for compliance, which have now been entitled “targets”. If they did not agree we knew that the talks were going to break off. I mean, that signal was pretty clear. The Japanese really were not sitting down and discussing very seriously, nor were we, the last 3 or 4 days. The bureaucrats would work until 2 in the morning, but then nothing would happen.

Is there a game plan now? Not that I think you should give it to this committee or state it publicly, but let me just ask a little bit about it. Is there a game plan, “What do we do next?” and, “What do we do next?” and, “What do we do next?” You know there is a great deal of commotion in the markets in the United States about what is next. If anything is affecting the equity markets in America, it is that right now, even more than the slight increase in interest rates, from what I gather reading Wall Street input.

I think the sooner we get the game plan out there and everybody understands what we are going to be doing, the better. On the other hand, you cannot make everything open and public. I understand these are negotiations, but could you just talk a minute with us about the last point?

Ambassador KANTOR. Absolutely. Let me just say that you are right: We wanted measures of success. The Japanese Government agreed to the objective criteria. There was no doubt about that agreement, it is clear on pages 5 and 6, the last two paragraphs or last paragraph on 5 and the first paragraph on 6.

Second, you are also right that our products are not only equal quality, but in many cases better. We have done quite well. It was recognized in a joint report between MITI and our Department of

Commerce which MITI admitted, in fact, that they were lacking foreign auto parts. Now, auto parts are not right-hand to left-hand drive.

Senator DOMENICI. No, no.

Ambassador KANTOR. And auto parts are not selling there as well. So it is not just automobiles, it is auto parts. It is a \$100 billion a year market in Japan.

Third, the fact is that the Japanese Fair Trade Commission has indicated in areas such as glass and others that cartels are still at work in Japan. So there is no doubt about what is going on.

Yes; we do have a game plan. We recognized quite early in the process after the first year that this had not gone in the way which we would have wanted. We reached the agreement in July 1993 in Tokyo in good faith. We believe that the framework agreement will work and work well. We think it is a product of the experience, not only of this administration but of prior administrations and the Congress. We have talked to many people about it. We understood what we were going to do immediately after and how we wanted to proceed.

It would be unfortunate, I think, and I think you said it best, if I laid out any detail of that, but I can tell you this is the first President who has stood up and said no to Japan. He will continue to insist that we have agreements that work. He believes it is in the best interests, not only of this country for global growth, but of Japan as well. It should not escape anyone's attention that because of barriers to entry in Japan, the price of goods in Japan is extremely high; it may be the highest cost of living in the world. Although their workers are the second highest paid workers in the world, their standard of living is not that high because of that. If, in fact, there were foreign competitive goods in that market it would lower their cost of goods and raise the standard of living and make Japanese companies, frankly, more competitive and innovative and be of help to all of us.

So we believe this is in the best interests of both countries. We are not going to be dissuaded from the course we are on and there is a so-called game plan, if that is what you want to call it, and we have never doubted where we were going, and what we would do and how we would try to institute it.

The one thing we will not do and where we may have a little disagreement with the chairman, although I do not think it is that great, we are trying to be careful that what we do does not harm American workers as we go forward, or American business. We understand in an increasingly interdependent world the law of unintended consequences is at work, and you have got to be very careful as to when you move in a way to make sure that the Japanese understand that they are going to pay a price to not opening their markets that you do not do something that will harm Americans and American business.

Senator DOMENICI. Let me just follow up. So you have what you consider to be a plan with the caveat that you have explained, and frankly, I agree with that notion, that you ought to be careful that you do not, in extracting this, you do not get reciprocity that is equally as bad. It would not help the President; it would not help our people.

But what I do wonder, second, in terms of analysis, so that the President knows what might happen, has there been an analysis of what the Japanese might do and how it would impact us? Let me just give you a scenario.

Ambassador KANTOR. Sure.

Senator DOMENICI. I heard somebody the other day discuss a hypothetical situation. I was sitting around one evening saying, "If I were advising the President I would get all these Cabinet people with all their talent and say, 'Put everything on paper that the Japanese might do so we will understand,' " and as one of them I said to myself, "Let's assume that they sit down and talk about how they could affect our money markets." They still loan a lot of money to the world. At one point in time they literally were the reason we could borrow so much and have interest not go totally through the roof because they were in the market lending a heck of a lot of money. They are not quite that big a player in the American scene at this point, but plenty big. So my concern is: Do we know on issues like that what they might do and what the negative effect might be? Let me just put that specifically. What can they do about the money supply and borrowing and T-bill acquisition? That would affect the entire recovery plan more than anything else.

Ambassador KANTOR. There is no evidence whatsoever that the Japanese have done anything or intend to do anything in that area. Obviously, it is something that you would have been the first on the list to do that.

Senator DOMENICI. It is dynamite if they do it, no question.

Ambassador KANTOR. We do not believe there is any chance whatsoever that would ever happen. The fact is that their investment in this economy is so huge and their stake in it is so large that, of course, it would not be in their interest to do so. That is why I talk about the interdependence. Sony has more employees and assets in the United States than they do in Japan.

Senator DOMENICI. As of now?

Ambassador KANTOR. As of now. Sony is bigger here than any other place in the world, in as far as that corporation. There are a number of Japanese companies, of course, that have huge investments here.

Senator DOMENICI. I guess what I want to do is—

Senator HOLLINGS. He is trying to sell something. Go ahead.  
[Laughter.]

Ambassador KANTOR. It is very specific.

Senator DOMENICI. What I want to know is: Has it been analyzed as to how they might carry out such an endeavor?

Ambassador KANTOR. It has been analyzed and then found that the analysis is such that it just would not be done.

Senator DOMENICI. Has that been done by Treasury?

Ambassador KANTOR. Treasury has looked at that.

Senator DOMENICI. Frankly, that is the one that worries me more than anything, because it could affect interest rates. If you got interest rates moving, we could live with what the Federal Reserve did the other day, but we cannot live with a whole point going up all at once.

Ambassador KANTOR. By the way, in terms of interest rates, long term rates rising, which they have, we see no evidence whatsoever that this dispute with Japan has any effect whatsoever on that.

Senator DOMENICI. I think that is right.

Ambassador KANTOR. None. We have looked at that as well, because obviously it is of some concern. This administration has thought that its policies have been working with the Congress to hold down long-term rates is critical to our recovery, to pour as much private capital into our markets as possible to grow as an economy, and we see no evidence whatsoever that this has had any effect on it.

#### POTASH

Senator DOMENICI. Let me ask you a parochial question. I think you and I sometime ago spoke about potash negotiations. I understand that consultations with Russia and Belarus on the dumping of potash did not take place in the past few months, as you had indicated it might be.

What is the current status of that consultation? The reason it was put off, according to your office and you, was that you had to gather information.

Ambassador KANTOR. It has taken, unfortunately, more time than either we suspected or were comfortable with for the Russian and Belarussian Governments to assemble the necessary information. As you know, it does not just come from one agency or one government. In mid-February the Russian Government notified us they completed the questionnaire we had given them. I think you are familiar, at least your staff is, with that questionnaire.

Senator DOMENICI. Yes.

Ambassador KANTOR. And we suggested consultations be held in April, and that is where we stand at this point. It has taken longer than we suspected. I think that it is characteristic of other concerns that we have had with Russia or the former Soviet states that it is more difficult than we suspected to get information out. But we see no delays based on any kind of behavior that would not be appropriate. We just think it is difficult for them to get it together.

Senator DOMENICI. In my opinion potash-type dumping is becoming almost synonymous with a former Soviet Union country because that is a way for ready cash, but it is terribly destructive.

Ambassador KANTOR. Absolutely.

Senator DOMENICI. It has absolutely no relationship to market value. It is a big supply of something they have got. They do not know what it cost to begin with, and they just decided, "If we can get \$300 million for this potash, let's just sell it." I think we need to develop, if they do not come through, some means of pushing some new market techniques and some evaluations on this market where unilaterally we start to say, "You have got to follow some rules because you are just going to kill American markets."

Ambassador KANTOR. There is no doubt about it. We faced that in the aluminum industry, as you know.

Senator DOMENICI. Correct.

Ambassador KANTOR. USTR has reached an agreement where they have cut their aluminum production and, in fact, aluminum

prices have gone back up in the world. As you know, prices were terribly depressed because of the dumping by Russians, especially the Russian Government or Russian industry on world markets. When we put in voluntary restraint and they cut their production, it is interesting, the price went back up. We had lost about 5,000 employees in this country over a very short period of time because of that drop in prices.

The potash situation is, I think, on all fours, as lawyers—I used to be one—as lawyers say, and, therefore, we are facing that in April. We will move very quickly. I have no apologies to make. We have worked hard in trying to get this information out of the Russian and Belarussian Governments. It just has not been forthcoming.

Senator DOMENICI. Will you stay on it?

Ambassador KANTOR. Oh, we are on top of it, this whole area. There are other areas, of course, that we are worried about Russians dumping product on the world markets, especially potash, uranium or aluminum, and so we are very focused on that, sir.

Senator DOMENICI. My own personal view, and I do not know that I speak for anyone else, but I am not for shutting them down and saying they cannot sell. We have to help them as they move through this formation of a capitalistic and democratic economy, but I think those kind of countries would have to accept some kind of rules or it might be that Congress will speak to the issue when we find just literally there is no bigger issue than dumping. The problem is we do not have any criteria for measuring the impact. That is what we have got to get done.

Ambassador KANTOR. Exactly.

Senator DOMENICI. You are going to do that?

Ambassador KANTOR. Exactly.

Senator DOMENICI. On potash, again, you are aware that the United States and Canada have an agreement on potash. It goes year-by-year, and then it gets looked at again. In the process now, we have been waiting for the finalization of this "yes" or "no" on the agreement. Can you tell us what the status is now and when we might expect a decision?

Ambassador KANTOR. Could I provide that for the record and get back to you, Senator?

Senator DOMENICI. Absolutely. Can we call somebody today after you get back?

Ambassador KANTOR. Sure. I would assume David Weiss or Chip Roh.

[The information follows:]

On January 7, 1988, the Department of Commerce entered into a suspension agreement in Potash from Canada with eight Canadian companies. Because the suspension agreement is more than five years old, it is subject to Commerce's "sunset" provision.

The sunset provision requires Commerce to publish a "Notice of Intent to Terminate the suspended Investigation" five years after a suspension agreement is entered into if no interested party has requested an administrative review in the preceding four consecutive year periods. If an interested party objects to the proposed termination, the agreement will stay in effect. Commerce must repeat the notice in each subsequent year if no administrative review is requested. If, however, an interested party requests a review, the clock goes back to zero and four additional years must pass before the sunset provision becomes operable.

In accordance with its regulations, Commerce published a notice of intent to terminate the potash agreement in December 1992. The petitioners objected to the notice of termination and the agreement consequently remained in effect. Commerce published a second notice of intent to terminate on January 3, 1994. On January 28, U.S. producers again objected. Therefore, Commerce will not terminate the agreement.

The sunset provision was adopted to provide a mechanism for terminating old orders and suspended investigations no longer of interest to domestic interested parties. The burden of objecting to a notice of intent to terminate is minimal—potash producers simply inform Commerce in writing within the specified time limits.

#### TIED AID

Senator DOMENICI. All right. Under your budget, you are requesting \$228,000 for tied aid as part of a program by the Export-Import Bank to give financing to American businesses to counter the use of tied aid.

Ambassador KANTOR. Right.

Senator DOMENICI. What is the role of the Trade Representative in this use of tied aid?

Ambassador KANTOR. There are 29 agencies in this government that have some effect or deal with trade. We deal with national trade agreements, enforcing our trade laws and some of you are very familiar with that, as I am with the President's council in terms of how to enforce our trade agreements and coordinate our government. What was done was simply to create this pot of money in order to be able to compete with other countries who have used tied aid for years to our detriment, to make sure we can get our business people into these markets and compete on a fair basis.

All the agencies were requested to put up their percentage of the total pot, and that is what we have done.

Senator HOLLINGS. That belongs under Senator Pat Leahy, tied aid, does it not?

Senator DOMENICI. But it is here, is it not?

Senator HOLLINGS. Senator Leahy chairs the Foreign Operations Appropriations Subcommittee.

Ambassador KANTOR. Our part is here. Yes; in our budget, it comes out of 8—I think it is 8. I could be wrong. I may have the number wrong.

Senator HOLLINGS. We never have had it before, and it was always under the Foreign Operations appropriations bill, and that is where it belongs. We have tied aid, we understand that. But do not let us get it spread into the USTR budget and another budget over here and that budget over there. We are supposed to be streamlining Government.

Senator DOMENICI. And besides, we are going to be very hard pressed on this subcommittee.

Senator HOLLINGS. That is right.

Senator DOMENICI. We have got to fund everything in crime, too.

Senator HOLLINGS. The crime bill is all under this subcommittee.

Senator DOMENICI. I have some additional questions, but let me just submit them for the record and publicly indicate to you my support for what you are trying to do. I do hope you have a workable game plan, because I think American workers and American businesses really will be depending on that. Good luck to you.

Ambassador KANTOR. Thanks very much, Senator. I appreciate that.

## CHINA—WTO ADMISSION

Senator HOLLINGS. Mr. Ambassador, China has applied for admission into the World Trade Organization under GATT. Do we support that application?

Ambassador KANTOR. We have worked with China in terms of their application. We have indicated quite clearly to the Chinese Government that our support is dependent upon the way the Chinese Government acts and reacts to the trade agreements they have with us; their ability to adhere to protecting intellectual property; not engaging in transshipments and circumvention in the textile and apparel area; to opening their markets to agricultural products. They have done a good job—

Senator HOLLINGS. On agricultural products, what about tobacco?

Ambassador KANTOR. On all agricultural products.

Senator HOLLINGS. You support access to tobacco in that?

Ambassador KANTOR. All agricultural products.

Senator HOLLINGS. I have got some questions I want to submit on that score, because I know we have got to move to the SBA. But this is just exactly to that: Their memorandum of understanding in 1992, I think, they have not been living up to that. China has got \$25 billion now of surplus in the balance of trade with the United States.

Ambassador KANTOR. It is interesting. We have made some progress, though, and let me balance it off. Yes, we had problems, but they have opened up and either dropped totally their quotas or have lessened them to the point of almost opening the market containing 450 different manufacturing items, and that has been quite hopeful.

They have done better in the manufacturing area than they have been in the agricultural area. They have passed good and strong laws in the intellectual property protection area, but they are not enforcing them. We have sent a team over there to work with them. Part of their problem—and this is not by way of excuse, it is by way of explanation—is the further away you get from Beijing the less control they have. It is an interesting phenomenon.

They have 26 plants now in China producing compact discs illegally, piracy. And, in fact, they now have found their way into Canada, and we are doing everything we can to stop that in working with the record industry. It is a difficult problem, but I can tell you: We will not support that excession unless and until the Chinese Government operates in a way that is productive and opens their markets, not only to our goods, but to all foreign competitive goods, in order to get to enhance its global trading status, and they understand it. We have made it quite clear to them.

## CHILE

Senator HOLLINGS. Quickly, on Chile you mentioned the 320 million below Mexico. Chile has got free elections; Mexico does not. Chile has got a free market; Mexico does not. Chile has got a free trade movement; Mexico does not. Chile has got revered judiciary; Mexico has got the most corrupt in this hemisphere. And so I go

down to Chile here at the end of the year and they say, "How do you choose Mexico for a free trade agreement first, and not us?"

Are we interested in democracy? Are we interested in Chile, Mr. Chairman? What is the status of that?

Ambassador KANTOR. One, I have had a number of discussions with Chilean ministers. I am going there for the inauguration, leading the U.S. delegation. I am going to have a number of bilateral discussions including the Chileans. We are in very active discussions over there, working with them in terms of either a bilateral free trade agreement or accession to NAFTA, whatever seems to be the most effective way to proceed.

It was not a matter of choosing one or the other. When we came into office, of course, the NAFTA had already been signed, as you know. This President has already committed himself that Chile would be the first country that we would address in terms of having a free trade agreement through whatever makes most sense for Chile and the United States, either bilateral or NAFTA accession.

Frankly, Chile has done a marvelous job. We should have the same kind of numbers. They had 10 percent growth last year, 4 percent unemployment; they have a trade surplus and a budget surplus.

Senator HOLLINGS. These are the kind of things we ought to recognize.

Ambassador KANTOR. We do. We do.

Senator HOLLINGS. They prosecuted the Letelier culprits and they are after the ones in Spain and everything else of that kind.

What about Argentina? Would Mercosur not like that?

Ambassador KANTOR. No; we have talked. In fact, we have had meetings. I have had meetings with President Menem. The Mercosur countries of Paraguay, Uruguay, Brazil, and Argentina, of course, are, or are still, attempting to come to a common customs union. They have not yet. We worked with each of them, both individually and as Mercosur. We are going to make a very large push in Latin America, as I said, a building block approach, to open those markets. It is an enormous opportunity for this country. It is also an enormous opportunity to build democracies or continue to build democracies in that region.

Senator HOLLINGS. There you go. Now you are talking.

Ambassador KANTOR. We have both those agendas well in mind, Mr. Chairman.

Senator HOLLINGS. Did you notice in the New York Times this morning that Mexico opposed the expansion of NAFTA to other Latin countries?

Ambassador KANTOR. We have not heard that. I am not convinced that is an accurate report, although I would never try to debate the New York Times.

Senator DOMENICI. Well, you should. [Laughter.]

Senator HOLLINGS. We had to. That is how we got in office. [Laughter.]

#### SUPPLEMENTAL

The \$500,000 supplemental appropriation you requested, but you carried over \$921,000. What is the bookkeeping arrangement you have got downtown anyway?

Ambassador KANTOR. First of all, we have got the \$500,000, you know, late in the year. It was to pay for—

Senator HOLLINGS. But you had the \$921,000 in your pocket at the time you were asking because you carried it over into the next fiscal year.

Ambassador KANTOR. No; that \$500,000 carried over with another \$400,000 we saved by not flying first class; by using frequent flier coupons; by flying coach to Europe; by getting rid of a car; getting rid of a driver; closing down expenses in Geneva. We saved \$450,000 by doing things that probably you ought to do throughout the Government, but we are small enough we can get it done quite quickly. And what the money was for, we had extraordinary expenses at the end of the year, which went over into fiscal year 1994.

As you know, we finished the Uruguay round in NAFTA all within, I guess, 75 days and had an APEC meeting as well. We had folks flying all over in coach saving money, not staying in expensive hotels.

Senator HOLLINGS. So you want \$21 million. If we give you what you ask for you will not be up here for yet another supplemental?

Ambassador KANTOR. I did not say that. [Laughter.]

Senator HOLLINGS. That is what I want to get you to say. [Laughter.]

Is this a partial request? Is that what you are saying?

Ambassador KANTOR. No; it is a full request. We do not have the same thing of incredible pressures that we had in the latter part of the calendar year, the first part of the fiscal year. We saved that money on purpose. We saw it coming and John Hopkins, who is the administrator, did a marvelous job in making sure we had the money. We are fairly frugal. We cannot afford—every few bucks means a lot to us.

#### ENVIRONMENT COOPERATION COMMISSION

Senator HOLLINGS. Another one, the State Department—this is a little small one, and then we will submit the rest of the questions—their budget includes \$3.3 million for a new Border Environment Cooperation Commission. We already have a \$25.8 million commission down there with the International Boundary and Water Commission which conducts environmental and economic development projects. But now we are going to start yet another bureaucracy?

Ambassador KANTOR. This is a result of your favorite treaty.

Senator HOLLINGS. Does Vice President Gore have anything to do with budgets over there?

Ambassador KANTOR. Yes, sir; he is deeply involved in all of this. The Border Environmental Cooperation Commission is to try to make sure that what we do down there in terms of putting enormous amounts of both private and public money from Mexico and the United States and leverage, that money is done in a way that is in working with the New American Development Bank. It is rational and productive and effective, and I think it is a smart idea; I think it was well thought out, and I believe the State Department working with USTR and working with the Government of Mexico and with private—we spent a lot of time up in New York with Wall

Street investment bankers trying to figure out how to make this work and work well. Part of this comes out of a lot of ideas out of the private sector and how to make it effective.

Senator DOMENICI. Mr. Chairman?

Senator HOLLINGS. Yes.

Senator DOMENICI. On that subject, let me just suggest to our Trade Ambassador that border study commissions proposals abound. They are endless. I mean, everybody has an idea, and the environment is the issue. I would hope that since you spoke of frugality that from time to time somebody would make sure we are not doing similar things in other departments of Government. Everywhere we turn in my State—I am on the border, and we are hoping to grow—but we have more Government being planned than you could ever imagine. I think the border may sink with Government before we are through, especially if they all got funded, and they are not yet. So I just urge that you be careful not to duplicate.

Ambassador KANTOR. The Border Environment Commission, and I understand your point.

Senator DOMENICI. The need is there.

Ambassador KANTOR. This is an operational organization, not a study organization.

#### ADDITIONAL COMMITTEE QUESTIONS

Senator HOLLINGS. Very good. Senator Inouye and Senator Lautenberg have submitted questions for the record. I have some additional questions, and we will keep it open for the other members. We cannot thank you enough. In spite of the results, I think you are doing a good job, unfortunately. [Laughter.]

Ambassador KANTOR. Thank you, Mr. Chairman. I appreciate it. And fortunately, you are doing a good job.

Senator HOLLINGS. We are not going to cut your money. Do not worry about that, but we are looking at those things.

Ambassador KANTOR. Thank you, Mr. Chairman. I appreciate it.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

#### QUESTIONS SUBMITTED BY SENATOR ERNEST F. HOLLINGS

##### NAFTA BUREAUCRACY COSTS

*Question.* A year ago, the Clinton Administration was criticizing the large number of specialized commissions in the Federal Government, but, now that we have the fiscal year 1995 budget, it turns out that the Clinton Administration is requesting that more specialized commissions be created to implement NAFTA.

Under this CJS appropriation bill, the State Department is requesting \$3.3 million for a new "Border Environment Cooperation Commission". That's in addition to the \$25.8 million already requested in State for the International Boundary and Water Commission for environmental and economic development projects on the border.

**NAFTA Bureaucracy Costs:** What is the total amount requested in the President's fiscal year 1995 budget—federal-wide—to establish new NAFTA commissions and agencies. How much is requested in the Commerce budget for resolution of trade disputes between the U.S. and Mexico? With respect to Canada, this is in the USTR budget isn't it.

**Answer.** Incremental U.S. Government expense for implementing the NAFTA is insignificant and was offset in the NAFTA Act's pay-go provisions. Existing career

personnel, in many cases, the negotiators, will participate in most committee and consultative groups.

The NAFTA and its supplemental agreement create only four new standing organizations.

One, a NAFTA Secretariat (U.S. Section) to administer dispute settlement provisions of NAFTA Chapter 19 and 20 is housed in the Department of Commerce, as was its predecessor, the CFTA Secretariat. The NAFTA implementing legislation authorized annual expenditures of \$2 million. These funds come from the Department of Commerce's appropriations.

Two, the North American Commission on Environmental Cooperation will be the central organization for promoting environmental cooperation throughout the continent. EPA takes the lead. The NAFTA implementing legislation authorized \$5 million/year for the U.S. contribution to the operations of its secretariat. The funds will come from EPA appropriations.

Three, the Commission on Labor Cooperation will function similarly for North American cooperation on labor issues. The Department of Labor takes the lead. Because it has somewhat different functions, we expect the Labor Commission's secretariat to be smaller than that of the Environment Commission. The NAFTA implementing legislation authorized \$2 million a year for the U.S. contribution to the operations of its secretariat.

Four, the Border Environment Cooperation Commission will address environmental problems along the Mexican border and marshal funds for major projects. The State Department will take the lead and fund the U.S. contribution. The NAFTA implementing legislation authorized \$5 million/year for the U.S. contribution.

With regard to dispute settlement costs for Chapter 19 cases active on December 31, 1993, funding to pay for expenses incurred in settling these cases is in USTR's budget request. During the fiscal year 1995/1996 period, USTR's role in reimbursing Commerce for expenses incurred will diminish when cases are completed. Once these active cases are concluded USTR's financial role in this process will end.

#### TIED AID

*Question.* Mr. Ambassador, I don't understand this "Tied Aid" request of \$228,000 appearing in your office's budget. I applaud President Clinton for deciding to use "Tied Aid" like our foreign competitors do. However, Senator Leahy has the foreign operations appropriations bill to cover the Export-Import Bank, Agency for International Development, and other organizations that give away funding to foreign countries.

Why is a contribution to foreign aid appearing in the USTR budget? Would you simply transfer these funds to the Export-Import Bank?

What other Federal agencies, other than the Export-Import Bank, have "Tied Aid" requested in their budgets?

*Answer.* The Tied Aid request is based on recommendations of the Trade Policy Coordinating Committee, which is comprised of agencies with missions related to trade, commerce and exports. American businesses operate at a disadvantage when their competitors receive credits that they do not get. The basic purpose of the Tied Aid program is to counter foreign tied-aid credits, when these are used in a manner which threatens to "tilt the playing field" against U.S. exporters bidding on specific foreign capital projects.

The fiscal year 1995 USTR budget contains \$228,000, which will be joined with funds budgeted in 7 other TPCC agencies, to give focus and broad-based support to this important initiative. USTR would make a payment to the Export-Import Bank which will administer a central Tied Aid fund. Other TPCC agencies with Tied Aid funding are: The Departments of Commerce, State, Energy and Agriculture, the Overseas Private Investment Corporation, the Small Business Administration, and the Trade and Development Agency.

Unlike traditional U.S. foreign aid programs that are considered by Senator Leahy's committee, Tied Aid is not a form of funding support to foreign countries, but rather is assistance to U.S. business that find themselves at a disadvantage when confronted by tied aid support given their foreign competitors. For this reason, it is appropriate that it is contained in USTR's budget.

#### CHINA

*Question.* Ambassador Kantor, I urge you to do everything in your power to promote U.S. exports, and not overlook a single opportunity to improve our balance of trade. You were quoted as saying that "Everything on our agenda was achieved this year," meaning, of course 1993. We're here to help you achieve your agenda this

year and every year in the future. Considering that the U.S. trade deficit for 1993 reportedly will be the highest since 1988, we've got our work cut out.

I am most interested in increasing U.S. exports to China and to Mexico. We have promising trade agreements in place with each country, so the next step is effective implementation.

Next to Japan, China has our second largest trade surplus—\$25 billion in 1992. Last October you criticized China for failing to live up to its obligations under its 1992 Memorandum of Understanding on trade liberalization with the United States. Your Deputy, Charlene Barshefsky, subsequently reiterated the same concerns, and threatened retaliation under U.S. trade laws, including Section 301, if the Chinese failed to live up to their commitments to liberalize trade by the end of last year.

How would you assess China's trade liberalization efforts under the MOU to date?

Are you satisfied that the Chinese are on schedule with their MOU obligations for all listed trade restrictions and all listed products for which liberalization was required by December 31, 1993?

May I have your assurance that you will insist on full compliance with the MOU trade liberalization requirements and timetable, without regard to the nature of the trade restriction or product involved? I see, for example, in the Annex to the MOU that Chinese quotas on rice are to be lifted by the end of the year. I'll watch developments on that with great interest. I also see that quotas on peanuts and licensing requirements for tobacco and tobacco products will be lifted, and that trade will be liberalized on a large number of textile-related products. Increasing exports of these and other products will be beneficial to my state.

The goal in every case is a true and full market opening. Sometimes U.S. exporters have to play a bit of a shell game, with our trading partners trying to determine whether the real barrier lies in distribution, licensing, quotas, or some combination. Will you fight just as hard for market access for every product listed in the MOU, and will you insist that the Chinese remove all tariff and nontariff barriers with respect to each line of commerce?

Let's imagine that next January some of my constituents comes to me complaining that China has not lived up to its MOU commitments with respect to a certain product scheduled for liberalization by December 31 of this year. When I call you about this, what course of action are you going to recommend?

A petition was recently filed with the U.S. Customs Service asking that the 50 percent Mexican tobacco tariff be phased out over five years rather than the current ten year period. While I would prefer to see this tariff eliminated immediately, surely reducing the time from ten to five years is reasonable. Do you intend to pursue that, and when should we expect a report on your results?

I mentioned tobacco and tobacco products in my questions relating to China and Mexico because these products play such an important role in reducing the overall U.S. balance of trade deficit. According to one study, U.S. tobacco exports contributed the third-highest balance of trade surplus among manufactured products. During a recent six-year period tobacco and tobacco products reduced the U.S. trade deficit by \$25.8 billion. Let's not overlook any product in our efforts to increase U.S. exports and reduce the trade deficit.

Answer. I am satisfied to date that China is substantially in compliance with the market access Agreement in the areas of transparency and market access for industrial and some agricultural goods. China has not yet fulfilled its commitments to base on sound science sanitary and phytosanitary standards for live animal products and for citrus fruit, stone fruit, grapes, wheat, and leaf tobacco. Secretary Espy and I are currently in touch with the Chinese, seeking a solution to this important issue.

In the area of non-tariff measures, China has lifted more than 800 NTM's since December 31, 1993. In addition to lifting the 258 required by the MOU last year, China removed ahead of schedule integrated circuits and some chemical products, bringing the total to 283, for products removed by the December 31 deadline. China also scrapped its system of import "controls"—though it retains licensing and quota requirements—and with it, import restrictions on a further 171 machinery and electronics products. Finally, during discussions this February in Beijing, the Chinese announced that they were removing 388 more items—primarily also in the machinery and electronics area.

I strongly agree with your view that the goal in every case is a true and full market opening. Our negotiators have been pressing this case consistently over the past year—with real results to show for it. I certainly expect the Chinese to remove all of the non-tariff barriers contained in the market access agreement; to date, we have found that, when the Chinese pledge to take a specific measure, by a date certain, they generally do so. Of course, we intend to monitor implementation of the market access agreement every step of the way. Should the Chinese not live up to

their obligations under the Agreement, the Administration is committed to taking decisive action.

If your constituents encounter problems related to the market access Agreement—or any other trade issue related to China that USTR covers, please alert my staff and they will take appropriate steps.

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QUESTION SUBMITTED BY SENATOR DANIEL K. INOUE

*Question.* The producing sector of the U.S. banana industry has been very competitive with the lower cost producers in Latin America. While it is true that U.S. industry is relatively small and located in my state of Hawaii, the industry is a viable one and serves to provide considerable economic well being and employment stability in the rural areas of the state. Banana producers in Hawaii sell about 12 million pounds of bananas per year, which constitutes one-half of the total consumption in the state.

This situation has changed drastically in July 1993 when the European Community (EC) implemented a new banana import regulation. This regulation replaced those of member states, seven of which were practically void of banana trade restrictions, with EC-wide tariff rate quotas (TRQ) and import licenses. While these have the stated purpose of protecting foreign and domestic banana suppliers, the real beneficiaries of these tariffs and import licenses are a very small number of EC importers.

I am deeply concerned that the EC banana policy has so restricted access to Europe that bananas are being forced into North America at record levels and at prices below the cost of production. At these prices, domestic growers will not survive. Further, U.S. companies that market bananas have also been deeply hurt by this new policy. In short, there are substantial U.S. trade interests adversely affected by the new policy.

On a broader level, I am also concerned that this new policy, if allowed to continue, will set market access precedents that will greatly impede the ultimate gains from freer trade among the world's nations.

What specific steps is the Administration taking to intervene with the European Community to support and resolve U.S. commercial concerns in this dispute?

*Answer.* We have consistently supported Latin efforts in the GATT to get a fair deal on bananas and pressured the European Union to adopt a GATT consistent banana import regime. On January 25, we asked our embassies to convey our views to the Latin American countries and the European Union as well as key member states. We will continue to encourage the European Union to adopt a banana regime that expands access for Latin American producers and which is consistent with the GATT.

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QUESTIONS SUBMITTED BY SENATOR FRANK R. LAUTENBERG

*Question.* Do you agree that GSP is a benefit rather than a right?

*Answer.* The GSP program offers duty-free market access to certain specified products that are imported from designated developing countries. The GATT has generally encouraged developed countries to grant such preferential treatment to developing countries. The United States is not, however, required to extend GSP benefits under the GATT or any other agreement. In order to support economic development in the GSP beneficiary countries, we have granted duty-free GSP treatment to products that are not import sensitive in the United States. However, in order to qualify for GSP benefits, GSP countries must meet various conditions, and they are not entitled to such benefits.

*Question.* Under the rules of the new GATT Agreement, can the United States still use GSP as a unilateral tool to produce better intellectual property protection by violators?

*Answer.* The GSP program has been used effectively to promote the adoption and enforcement of adequate and effective intellectual property protection (IPR) in GSP beneficiary countries. The Uruguay Round GATT Agreement does not preclude the United States from using the GSP program to promote better IPR protection in the countries that benefit from preferential access to our market under the GSP program.

*Question.* Would you agree that when a country flagrantly abuses the intellectual property rights of American companies, there should be a presumption that it will lose its GSP privileges until its IPR performance improves to at least a minimal standard, such as the TRIP's Agreement?

The United States can and will use all available means to address inadequate and ineffective IPR protection in GSP countries. It is important that the Administration have the flexibility and discretion to pursue our trade policy objectives without constraint. It would be appropriate to use the GSP program to ensure that countries are meeting all of their commitments under the TRIP's agreement. Moreover, even if a GSP country is fulfilling its commitments under the TRIP's agreement (including taking advantage of the transition periods), it may nevertheless be found to deny adequate and effective IPR protection, as is required in the GSP law.

#### ARAB BOYCOTT

##### *ITC Study on Business Impact*

*Question.* I know you have been working hard to remove an impediment to American exports: the Arab boycott of companies doing business with Israel. I commend you for your hard work.

In that regard, I also know you have been raising this issue with your counterparts in boycotting countries as well as with many of our trading partners who acquiesce to the terms of the boycott.

In response to a letter I wrote you along with Senators Moynihan and Grassley last summer, you agreed to initiate a study of the boycott's impact on U.S. businesses. You said you would request the ITC to provide such a study.

Could you tell me how that study is progressing and what is being done to aggressively solicit information from industry?

When do you expect it to be completed?

Do you have any preliminary estimates of the economic impact?

Once the report is completed, how do you intend to use it?

*Answer.* The ITC informs us that the study is proceeding according to schedule, which calls for its completion by early November 1994. They do not expect it to be completed before that date. They have no preliminary estimates of the economic impact.

The ITC had scheduled for March 17 a public hearing for companies and individuals to discuss any boycott issue. The hearing was canceled because there were no requests to appear. Several companies and organizations informed the ITC privately that they preferred to submit their comments confidentially.

The ITC has informed us that they are sending a confidential questionnaire to 700 businesses and organizations, including service providers, businesses that sell to boycotting countries and/or to Israel, businesses which produce inputs used in products being exported to the regions, as well as Chambers of Commerce and interested non-business groups. The ITC has made the questionnaire short to encourage a high response rate, and plans to send up to two follow-up letters to non-respondents.

ITC investigators plan to travel to the region in June to speak with business leaders and government officials.

We intend to use the results of the study to help determine next steps in response to a clear legal barrier to U.S. exports. If the study shows a significant economic impact, or shows that certain countries' practices are producing a significant economic impact, that will clearly be important information as we evaluate our next steps.

#### PROGRESS WITH ARABS

*Question.* Ron Brown is also doing some good work on this issue. When he was in Cairo during his recent swing through the Middle East, he apparently secured a promise from Arab League President Abdel-Meguid that the organization would discuss the secondary boycott at its meeting of foreign ministers in Cairo on March 27. Since then, however, I understand other Arab League officials have questioned the validity of Meguid's commitment to Ron Brown.

What's your sense? Do your contacts with your Arab counterparts indicate any reason for optimism that there will be any progress on the boycott issue in general or at the March 27 ministerial in particular?

*Answer.* The March 27 meeting of the Arab League did not take up the issue of the Arab Boycott. The Ministers believed that, given the continuing negative atmosphere created by the Hebron Mosque massacre, it would not have been productive to have engaged in debate on terminating the boycott or any of its aspects.

We continue to be in active contact with the Arab League and Arab governments, as well as states outside the Middle East, to emphasize the importance of bringing an end to the boycott as rapidly as possible.

With implementation of the Israel-Palestinian declaration of principles, a new economic relationship has been established between Israel and the Palestinian Authority. We believe strongly that continuation of the boycott will harm the Palestinians and impede the efforts of the U.S. and others to assist in building a prosperous and stable Palestinian economy. The President is committed to exerting all possible efforts to bring the boycott to an end.

#### QUESTIONS SUBMITTED BY SENATOR JIM SASSER

##### CONFECTIONERY RATES

*Question.* With the 1979 Tokyo Round, U.S. import duties on confectionery were reduced to the lowest in the world, 0 to 7 percent, while U.S. exports of similar products continued to face global tariff of 30 to 50 percent. The Uruguay Round offered a unique opportunity to redress this egregious trade imbalance by removing or significantly lowering these barriers to U.S.-produced confectionery.

Did U.S. negotiators succeed in this effort? And if so, why then is the industry reportedly facing confectionery duties ranging from 50 percent in Hungary, to 45 percent in the Philippines, to 30 percent or more in countries like Japan and Thailand?

*Answer.* Many sugar and chocolate confectionery items in the United States currently fall under Section 22 import protection. Under the Uruguay Round, a tariff rate quota will be established at existing access levels for those Section 22 confectionery and chocolate items. The in-quota rates will be our current duties (i.e., no reductions). The new out-of-quota rates will be a combination of specific and ad valorem duties, initially range from approximately 141 to 159 percent when converted to base period ad valorem values. Based on advice from Congress, our private sector advisory groups and our domestic industry, the United States will make the minimum reduction (15 percent) on the out-of-quota tariffs and existing tariff-only sugar confectionery items.

The U.S. exports many different kinds of sugar confectionery products, so the results in a particular foreign market depend on the type of import protection currently in place (tariff-only or non-tariff import barrier) and the exact product tariff classification. Japan has tariff-only protection for sugar confectionery products. Japan's tariff bindings on sugar confectionery products will be reduced by 15 percent to 66.6 percent. The final bound tariffs in Japan range from 10 percent on many chocolate confectionery items to 29.8 percent on some confectionery items that do not contain chocolate. Thailand and the Philippines will bind previously unbound sugar confectionery tariffs and make reductions of 33 percent (Thailand) and 35 percent (Philippines)—which is greater than both the minimum (10 percent) and average cuts (24 percent) required by developing countries.

Currently, Hungary strictly controls imports of sugar confectionery. Under tariffication, Hungary will convert its existing non-tariff import barriers to tariffs and provide access through tariff rate quotas. Under its minimum access commitment for chocolate confectionery, Hungary will expand access from base period levels by about 20 percent in the first year of implementation (211 tons) and by close to 90 percent (911 tons) in the final year. While the in-quota rate for chocolate confectionery remains at the current level of 30 percent, the out-of-quota tariff will fall from 50 percent to 30 percent over the implementation period. This means that at the end of the implementation period, Hungary will have eliminated all non-tariff import barriers and have a bound tariff of 30 percent. Hungary will establish a current access tariff-rate quota on other sugar confectionery items, and reduce the out-of-quota rate from 80 percent to 51 percent. The current applied tariff on these items is 60 percent.

*Question.* U.S. negotiators agreed to Hungary's restrictive 50 percent tariff on domestically produced confectionery. In exchange for this protective rate, the U.S. gave a new 800 ton soft cheese quota to Hungary, a nation whose domestic industry has been thoroughly privatized by three non-Hungarian European candy companies (Nestle, Stollwerck, and Suchard).

Please explain why U.S. negotiators agreed to protect the Hungarian market from U.S. produced confectionery by accepting a 50 percent duty on such products, effectively losing this market for U.S. products to Europe.

*Answer.* Currently, Hungary strictly controls imports of sugar confectionery. Under tariffication, Hungary will convert its existing non-tariff import barriers to tariffs and provide access through tariff rate quotas. Under its minimum access commitment for chocolate confectionery, Hungary will expand access from base period levels by about 20 percent in the first year of implementation (211 tons) and by close to 90 percent (911 tons) in the final year. While the in-quota rate for choco-

late confectionery remains at the current level of 30 percent, the out-of-quota tariff will fall from 50 percent to 30 percent over the implementation period. This means that at the end of the implementation period, Hungary will have eliminated all non-tariff import barriers and have a bound tariff of 30 percent. Hungary will establish a current access tariff-rate quota on other sugar confectionery items, and reduce the out-of-quota rate from 80 percent to 51 percent. The current applied tariff on these items is 60 percent.

Hungary did receive cheese quota from the U.S. For several years, the U.S. had committed to sympathetically reviewing requests from Eastern European countries in the Uruguay Round negotiations. Cheese was a major item on Hungary's request list.

In addition, Hungary was an active member of the Cairns Group, and had endorsed fundamental market-liberalizing principles like tariffication, discipline on export subsidies, etc. throughout the negotiations. During the negotiations, we continually pushed Hungary for improved access on sugar confectionery in the context of our offer of the cheese quota. Hungary did significantly improve its initial offer on sugar confectionery in the course of the negotiations.

*Question.* Why did U.S. negotiators not better protect export opportunities for the U.S. confectionery industry in Eastern and Central Europe by agreeing to a 10 percent preferential rate for European Community confectionery exported into these regions?

*Answer.* Eastern and Central Europe have preferential trading arrangements with the European Community. One facet of these agreements was a duty preference on EC sugar confectionery, currently at 10 percent. However, there was no guarantee that this preference would not be increased. Hence, we attempted to ensure that the preference would never exceed 10 percent.

#### TOBACCO—CHINA

*Question.* We know that in China, as in Japan, traditional, anticompetitive distribution systems greatly increases the difficulty of obtaining real, meaningful access to the market. This is particularly true where there is a domestic monopoly or cartel, such as the National China Tobacco Corporation, that stands between consumers and foreign exporters, impeding access to the market.

Will you make distribution bottlenecks to market access a priority on your trade agenda, including the role of the National China Tobacco Corporation with respect to potential sales in China of U.S. tobacco products?

*Answer.* Access to China's distribution networks are a key to genuine penetration of the Chinese market and, as such, distribution services is a key focus not only of USTR's services negotiations but also of the multilateral discussions of China's GATT accession. We are well aware that monopoly purchasing rights by Chinese companies is a formidable barrier. In the case of tobacco, that control has been significantly eroded by large-scale smuggling operations—unfortunately not by legitimate access for U.S. companies. By the end of 1994, China will remove import quotas and licensing requirements from cigarettes, cigars and other forms of tobacco. Market access should therefore improve somewhat.

*Question.* For years, we have been frustrated when trading partners agree to make changes advocated by the United States, but then either fail to do so or effect other trade barriers.

How are you monitoring China's compliance with its trade-liberalization commitments, specifically including commitments relating to tobacco products, as well as any developments that nullify or impair the value of those commitments?

*Answer.* USTR is strictly monitoring the market access Agreement. China is not now in compliance with provisions concerning basing phytosanitary standards for leaf tobacco on sound science. Ambassador Kantor and Secretary Espy, and their staffs, are now consulting on that issue.

*Question.* In the negotiations for China's accession to the GATT, the U.S. generally seeks tariff bindings at the lowest possible level. Since my state is a leader in the production and exportation of tobacco and tobacco products, I would request that you keep me informed of developments relating to those tariffs in the context of the accession negotiations.

*Answer.* USTR would be delighted to keep you apprised of any developments concerning tariff reductions in China.

## QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

## FTE EMPLOYMENT IN EXECUTIVE OFFICE OF THE PRESIDENT

*Question.* The Office of the U.S. Trade Representative is slated to be reduced by one FTE in fiscal year 1995, from 172 to 171. The 1994 number represents an increase of 166 to 172 from 1993.

The President has pledged to reduce employment in the Executive Office of the President by 25 percent. In the case of USTR, employment actually went up in 1994. However, there is a decrease of one position slated for 1995.

Why is the USTR, which is part of the Executive Office of the President, exempt from this 25 percent staffing reduction?

Do you know where the cuts have occurred—if they have occurred—in the Executive Office of the President? Haven't most of them occurred in the Office of the Drug Czar?

Do you have nonreimbursable detailees at the U.S. Trade Representative's Office? If so, how many do you have? Please provide the committee with a list of such detailees for fiscal years 1993, 1994, and 1995, including a designation of which agencies supplied these detailees.

*Answer.* The President has made two commitments to reduce the size of the Federal work force: (a) a pledge last year to cut 100,000 FTE's; and (b) a commitment under the National Performance Review to cut an additional 152,000 FTE's, for a total reduction of 252,000.

Against the 100,000 Government-wide staff decrease is 5 FTE's—and we achieved that by cutting by 5 FTE in the original fiscal year 1994 budget. Against the additional 152,000 staff cut recommended by the NPR, USTR was not assessed any additional cuts given the busy trade agenda that is envisioned through fiscal year 1995.

Effective with fiscal year 1994 the elements that make up the FTE level for an agency was modified. Students who are an integral part of USTR operations are now counted as part of the FTE base. Prior to this year, students were not counted. We average about 22 half-time students through the year, which equates to about 11 FTE. If you deduct the 11 FTE for students USTR's request remains at the 157. The overall decrease of one FTE next year is tied to a decrease in projected overtime worked.

Historically, USTR has operated with the assistance of details from other agencies. As of March 1, 1994, we have 46 details from 13 other agencies.

Agency	1995 (estimate)	1994 (current)	1993
Agriculture .....	6	6	6
Defense .....	1	1	1
State .....	19	19	20
FDA .....	1	1	.....
Interior .....	1	1	1
NASA .....	1	1	.....
USIA .....	1	1	1
Commerce .....	4	4	5
Labor .....	2	2	.....
EPA .....	1	1	1
ITC .....	7	7	6
Library of Congress .....	1	1	.....
Justice .....	.....	.....	.....
White house .....	.....	.....	.....
Education .....	.....	.....	.....
VOA .....	1	1	.....
<b>Total .....</b>	<b>46</b>	<b>46</b>	<b>41</b>

## QUESTIONS SUBMITTED BY SENATOR MITCH McCONNELL

## BANANA EXPORTS TO THE EUROPEAN UNION

*Question.* As you know, the European Union has implemented a highly restrictive banana import policy that includes an import licensing scheme explicitly designed to take market share away from U.S. companies for the benefit of certain EU firms.

I am quite concerned about the anti-U.S. company orientation of that policy and would like to know what U.S. strategy is being followed to make sure that the interest of our U.S. companies are being protected. I understand that the interests and needs of the U.S. companies may not be the same as those of Latin America, which would necessitate a very specific U.S. government strategy aimed at helping companies.

Answer. We have consistently supported Latin efforts in the GATT to get a fair deal on bananas and pressured the European Union to adopt a GATT consistent banana import regime. On January 25, we asked our embassies to convey our views to the Latin American countries and the European Union as well as key member states. We will continue to encourage the European Union to adopt a banana regime that expands access for Latin American producers and which is consistent with the GATT.

#### KFC—POULTRY EXPORTS TO CANADA

*Question.* Since 1979, Canada has controlled its domestic chicken market through production and import quotas. These quotas limit U.S. access to the Canadian market and restrict expansion into Canada by U.S. chicken retailers like KFC which is based in Kentucky. If the Canadian market were fully opened, U.S. exports to Canada would increase by an estimated \$350 to \$700 million annually.

I've been working on this issue for three years now. In 1992, I introduced a resolution urging President Bush to seek the removal of Canadian import quotas on U.S. chicken exports through the Uruguay Round and the NAFTA negotiations.

Canada has agreed to convert its supply management quota regime into tariffs under the Uruguay round. What concerns me, however, is how much real measurable access this will actually provide to Canada's market for American poultry producers.

I want to impress upon you the importance of converting Canada's poultry import quota system to a reasonable tariff equivalent that eventually result in increased market access. Doing so will enable U.S. chicken exporters and U.S. chicken companies operating in Canada to compete fairly in that highly protected market.

What is the status of Canada's offer on market access schedules for poultry?

Answer. Canada has submitted an Uruguay Round schedule which tariffs its supply management-based poultry import quotas and creates a minimum access level and very high second tier tariffs. However, tariff levels between the United States and Canada are governed not by the GATT, but by the North American Free Trade Agreement (including provisions retained from the U.S.-Canada Free Trade Agreement). Access levels and tariff rates which will apply to trade in poultry and certain other agricultural products are the subject of ongoing negotiations between the United States and Canada.

*Question.* What is the U.S. government doing to ensure that non-tariff barriers are converted to reasonable tariff equivalent rates that result in actual market access?

Answer. Secretary Espy is spearheading our negotiations with Canada. He and his staff have been in close touch with representatives of the U.S. poultry sector regarding the industry's export priorities for Canada. He will continue to work closely with poultry producers/exporters to attain, as completely as possible, the objectives the industry has outlined.

#### CHINA MFN

*Question.* As you know, in the next few weeks, President Clinton will have to make a decision regarding renewal of MFN status for China. It is my understanding that there is discussion within the Administration of making China's MFN status permanent, that is, not subject to annual renewal. For the record, I think such a move would be prudent. Renewal of MFN for China has become an annual Kabuki dance in Congress, dictated more by domestic political consideration than sound economic and foreign factors.

Can you update me on discussions within the Administration regarding making China's MFN status permanent?

Answer. At this point, if this year goes well and the Chinese meet the conditions of the May 28 Executive Order, we will consider broadening the relationship.

*Question.* As the Administration's chief trade negotiator, do you believe that the granting of MFN trade status—something which we automatically give to nearly every one of our trading partners—is an appropriate tool to use to bring about changes in China's trade practices?

Answer. On trade, USTK has implemented to the letter the President's Executive Order of May 28, 1993. We have vigorously pursued unfair trade practices—such as

China's failure to protect U.S. intellectual property rights—and are now considering identification of China as a Priority Foreign Country. We will make full use, when necessary, of the Section 301 and Special 301 statutes, as the Report to the Congress noted. We have also pursued full implementation of the market access agreement, with considerable success. In sum, I think that we have the tools that we need now on trade.

*Question.* Do you think that threatening withdrawal of MFN will actually decrease our trade deficit with China?

*Answer.* On trade, we are pursuing open markets and access and advantage in China that is comparable to that accorded to China in the United States. The Administration's policy on MFN, as expressed in the Executive Order, is to obtain significant progress on key human rights issues—and, on trade, to rectify unfair trade practices.

*Question.* Has USTR done any analysis of the impact on U.S. exports to China—say in the area of agriculture or aerospace—if MFN is withdrawn?

*Answer.* USTR per se has not done an analysis, although other government agencies have, I believe. We had more than \$2 billion in aircraft sales to China last year. Clearly, if MFN were withdrawn, the Chinese could elect not to make significant purchases of aircraft, or agricultural products, in 1994.

## SMALL BUSINESS ADMINISTRATION

### STATEMENT OF ERSKINE B. BOWLES ADMINISTRATOR

#### PREPARED STATEMENT

Senator HOLLINGS. We will now hear from Erskine Bowles, the Administrator of the Small Business Administration. For fiscal year 1995, the administration is requesting \$806 million for SBA programs. This level would support almost \$12.7 billion in business loans and other SBA credit programs.

Mr. Bowles, the subcommittee is pleased to have you appear again. We will include your statement in its entirety in the record.

Mr. BOWLES. Thank you, sir.

Senator HOLLINGS. You can summarize it or deliver to it as you wish.

Mr. BOWLES. I would like to summarize it, if I could, and speak from a few notes I have here, if that is OK.

Senator HOLLINGS. Very good.

[The statement follows:]

#### STATEMENT OF ERSKINE B. BOWLES

Mr. Chairman and distinguished members of this Committee, it is again a pleasure for me to appear before you. I believe that we are embarking on a very exciting period for small business, and I appreciate this opportunity to appear before you to discuss some of the Administration's plans for the U.S. Small Business Administration (SBA) over the next few years. The President and I are committed to making great things happen for small businesses in our Country.

This Administration recognizes that small businesses are an important part of the overall effort to create and sustain a pattern of steady domestic economic growth and job creation. The President is firmly committed to helping small businesses start, prosper and grow. It is our goal to ensure that small businesses have the Federal assistance they need to play their part in sustaining the economic recovery. I am working side-by-side with the President to develop the SBA programs and plans to make this goal of sustained economic growth a reality during this Administration. Over the last year I traveled across the Country talking to over 2,500 small business owners and 400 small business lenders at town hall meetings in Atlanta, Cleveland, Des Moines, Hartford, Houston, Los Angeles and Portland. The President and I wanted to know what it is that the Federal Government can do—what programs and services can we refine or develop—to help these businesses survive, grow and prosper. We know that it is the products and services that small businesses create, along with the employment that activity implies, which are critical to the Nation's economic health. As you might expect, over and over again I heard that small businesses lack access to capital to meet their basic business needs, whether that need involves commercializing an idea, purchasing inventory and equipment, or meeting a payroll. This was particularly true for those small businesses located in inner cities and poor rural communities, and those owned by minorities and women who need loans for amounts less than \$200,000.

Without that all-important capital, many businesses cannot survive; and clearly without capital, small businesses cannot grow and cannot create jobs—it's as simple as that. And without these businesses we will not have a sustained and widespread economic recovery. It is therefore vitally important that we, the Administration and the Congress, work together to ensure this critical need is met through full funding of the 7(a) and other SBA loan programs and that these programs continue to be authorized under the Small Business Act at sufficient levels in fiscal year 1995 and

beyond. As you know, the current authorization for our appropriations in Section 20 of the Small Business Act will expire at the end of fiscal year 1994. In addition, SBA's authority to enter into cosponsorships with the private sector and our authority for the Preferred Sureties program will also expire at the end of fiscal year 1994. This reauthorization and other legislative actions will be forwarded to the Congress shortly as part of our fiscal year 1995 Legislative Package.

The fiscal year 1995 budget request for the SBA that has been sent to you by the President recommends \$11.9 billion in business lending for small businesses, including \$9 billion in 7(a) lending, \$2.1 billion in Development Company lending, \$730 million in Small Business Investment Company lending and \$65 million in Microloan lending. The \$9 billion for 7(a) lending is comprised of an fiscal year 1995 request for \$7.5 billion plus \$1.5 billion that we project to be carried forward from fiscal year 1994. Also included in this request is \$1.8 billion in new surety bond guarantees, and \$412 million for disaster lending.

#### REINVENTING/STREAMLINING THE SBA

Having spent the vast majority of my career in the private sector as a businessman, I understand the value of knowing your customers and their needs. But it is equally important to have the resources, programs, and delivery systems to meet those needs. To promote reinvention, streamlining, and empowerment at SBA, I actively sought ideas and suggestions from three sources: our primary constituents, small businesses; our partners, the lending institutions; and SBA employees, who meet our customers face-to-face every day. I wanted to find out what really needs to be done at the SBA to improve the way we deliver services and programs, and to reach out to those small businesses that have in the past been unwilling or unable to make use of SBA's services.

The first and most significant thing I learned was that we had too many staff dealing with things other than our small business customers. SBA's organizational structure was established well before the advent of modern communications and information technologies. One of the benefits of these modern systems is the way they support leaner, more efficient organizational structures. Today's technologies make it possible to reduce administrative overhead. Modern organizations use these efficiencies to streamline their organizations, take cost out of their structure, and to put more assets in direct support of their customers, which is exactly what we want to do at SBA.

In reviewing our organization, it quickly became apparent that there was simply no longer a pressing need for ten large Regional Offices along with a large, highly segmented Headquarters staff to further oversee and monitor programs. We had too many staff focused internally, at the expense of our customers and their business needs.

To remedy this imbalance, I asked for advice from both our customers and our employees as to how they felt we could overhaul the SBA to give better customer service. Our management team took this advice and developed a reorganization proposal that would reduce administrative overhead, take advantage of current technologies, and put more of our employees in our District Offices dealing directly with our customers, the owners of small businesses. This proposal was sent to you in late 1993. It is a tool that I urgently need to bring life to our plan for an effective SBA. The reorganization proposal includes several program initiatives that we plan to phase-in simultaneously over the next several months. The net effect of this reorganization will be positive and it will position SBA to better meet the future needs of our small business customers.

There are two initiatives that we will undertake immediately to improve the delivery of programs and services to our customers. First, we are proposing to downsize our Headquarters staff by about 150 employees through a combination of attrition and voluntary reassignments. Approximately 60 employees have opted for voluntary re-assignments from Central Offices to our District Offices, and about 45 of these people are already in their new locations, at the District Offices where SBA programs are delivered to our customers.

We expect to achieve the remaining reduction of 90 staff by the end of the fiscal year through attrition and retirements, with no adverse personnel actions. This reduction of 150 employees in Headquarters will allow us to turn back to GSA leased space for annual savings of almost \$1.5 million. Even more importantly we will have additional people in the field delivering services to our customers, the owners of small businesses.

Certain employment reductions have also been mandated as part of the overall Federal Government downsizing effort. Our fiscal year 1995 budget request reflects the Administration's target Full-Time Equivalent (FTE) level of 3,845 for the SBA,

which includes 104 for the Office of Inspector General (IG). This is a reduction of 75 FTE's from our fiscal year 1994 authorized ceiling of 3,920, which included 106 for the IG.

Second, we are proposing to right-size our current system of regional offices to shift an additional 150 employees from our Regional Offices to our District Offices where, once again, they will take positions in support of our customer service efforts. In total, we hope to have over 210 additional employees working in our District Offices by early summer if our regional reorganization plan is approved. This influx of resources should help bolster our ability to deliver our expanding assistance programs such as the 7(a) loan program. This program has grown by some 120 percent since fiscal year 1991, when we approved \$4.1 billion in loans. Our current request for 7(a) funding will support \$9 billion in fiscal year 1995 loans.

#### SPECIAL INITIATIVES

In addition to shifting our employee base in support of customer service, we have taken a hard look inward at how we manage and administer our programs at the SBA. Over the past nine months, with valuable input from our employees, our customers, and our partners at the lending institutions, we have developed a number of exciting new initiatives to improve the way we deliver our programs and services to our customers. I firmly believe that when these changes are in place and coupled with our additional field office employees, SBA will be better prepared to serve the needs of all sectors of the small business community in all parts of the Country.

Let me briefly summarize for you some of these initiatives.

##### *Loan servicing centers*

Among Federal agencies, SBA has been very successful in its loan collection operations, because of the highly automated and centralized approach we have adopted. This success has been demonstrated year after year in our four disaster home loan servicing centers in New York, Georgia, Texas, and California. In addition, our business loan servicing center in Fresno, California has also proven to be highly effective. To build on this proven efficiency, we plan to expand our California business loan servicing center and create an additional servicing center in Arkansas.

Over time, these servicing centers will assume the routine servicing and collection of most of our \$25 billion loan portfolio, a portfolio that has grown dramatically over the past few years due to the large increase in our business and disaster loan programs. In fact, our portfolio was only about \$19 billion at the end of fiscal year 1991. This centralization will improve our overall operations by bringing greater uniformity and lower transaction costs to more of our loan portfolio. With our Fresno servicing center we have experienced a 9 percent increase in the currency rate of SBA serviced loans. We would expect similar results from this expansion effort. Also, this centralization of loan servicing will increase collections to the Government and thereby contribute to lower loan subsidy rates. Finally, through the economies of scale that these servicing centers create, we will free up human resources in our District Offices. We anticipate that we may be able to reduce portfolio servicing personnel nationwide by about 26 percent over time. Our employees will then be able to spend more time on resolving the difficult liquidation cases and assisting loan officers in delivering SBA's programs to the local small business community.

We are also proposing a similar centralization at the front end of our loan making operation to process 7(a) loan packages assembled by our preferred lenders. Again, we expect this effort to result in significant process efficiencies and greater levels of service to our customers.

##### *Export assistance centers*

We are developing several "one-stop" shop concepts to provide small businesses information and services covering a range of Federal programs from a single site. In the International Trade area, we are jointly sponsoring four Export Assistance Centers in Baltimore, Los Angeles, Miami, and Chicago with the Department of Commerce and the Export-Import Bank. These locations were chosen to conform to the geographic concentration of international trade businesses and to be in close proximity to state and local export assistance resources. These centers will offer small businesses a wealth of information and assistance from the Federal, State, and Local levels. We are working on plans to expand the number of centers to fourteen in fiscal year 1995. Our budget request includes \$3.2 million to fund these fourteen centers in fiscal year 1995.

##### *One-stop capital shops*

We realize that Federal economic recovery efforts must also address rural, inner-city, and economically depressed areas. Most of these areas have been under served

by Federal small business assistance programs and services. Therefore, we plan to establish "One-Stop Capital Shops" within the Empowerment Zones and Enterprise Communities designated by Secretary Cisneros and Secretary Espy.

These centers will supply a comprehensive mix of Federal programs and services that are necessary to enable small businesses to start-up, survive and grow in these capital starved locations. We will work closely in this effort with our Service Corps of Retired Executives (SCORE) and Small Business Development Centers (SBDC) resource partners. Our Minority Small Business Program, Small Business Investment Company Program, Certified Development Company Program, 7(a) Program, Microloan Program and Business Information Centers (BIC) will all support this initiative to provide business development, lending, counseling, training and technical assistance at these locations. We hope to establish nine centers by next year and our fiscal year 1995 budget request includes \$18.6 million to fund the program costs of these centers. Of this \$18.6 million, \$15.1 million will be used to fund \$375 million in financial assistance through our 7(a), Certified Development Companies (CDC), Small Business Investment Companies (SBIC), and Microloan programs.

#### *Simplified loan application forms*

Another of our initiatives is the recent development of a simplified loan application package for small businesses which need financing in an amount less than \$100,000. These loan applications are only one page long, and focus more on the applicant's character and history than on traditional credit criteria such as collateral. Lenders will be required to liquidate any loan under \$50,000. The reaction of small businesses to this program to date has been overwhelmingly positive. Since this program was piloted in San Antonio, Texas in December, we have approved 147 loans for \$7.3 million. The program has brought many small lenders back to the small business market. The average loan size to date has been under \$50,000 and the average size of the business receiving the loan is four employees. 18.3 percent of the loans have gone to women, and 23.8 percent to minorities. We are currently reviewing the pilot effort in Texas, and hope to roll-out this program to the rest of the nation very shortly.

#### *SBIC participating security*

With respect to venture capital, we are finalizing our plans to introduce the Small Business Investment Company Participating Security program. I have recently added to our management team an acknowledged expert in the field of investment lending who will reinvigorate this program and manage it with the integrity and attention it demands. This new participating security has been long awaited by the SBIC and small business communities, because it will enhance the availability of urgently needed venture capital. As you know, most new small businesses do not need current pay capital. This program recognizes that fact and will enable SBIC's to provide small business with financing structured in a manner that will allow the small businesses to get the capital they need and a chance to turn a profit before being burdened with debt repayment. Our fiscal year 1995 budget request includes \$500 million in financing to support this new program. We anticipate that over the next three years between 150 and 200 SBIC's will be formed with \$10 to \$15 million of equity capital each from the private sector. This \$1.5 to \$3 billion of private sector capital combined with the leverage provided by the SBA could result in up to \$9 billion being infused into building our economy and creating jobs.

#### *Renewed financing emphasis*

We are also modernizing our traditional loan programs to make them more effective in meeting the capital needs of all small businesses. These revisions will include additional emphasis on those areas that have been previously under served by the SBA and are starved for capital including women-owned businesses, veteran-owned businesses, and minority-owned businesses as well as those areas creating the most job opportunities.

#### *Minority small business program*

We recognize the important role that minority businesses play in the economic development and the revitalization of our economy. In the past, however, the efforts of the Small Business Administration to assist the minority business community, unlike its efforts to assist other small businesses, has focused almost exclusively on providing access to assistance with government contracting. In an attempt to remedy this and address the problems of the current program, we are working together with the Congress, the Administration, and our small business customers to develop a Minority Enterprise Development Program that will utilize all of the resources of the SBA to enable the companies that participate in the program to survive in the mainstream economy.

We will expand the scope of the services we provide to minority-owned businesses, working with our partners and sister agencies. Our program will make all of the programs and services offered by the Small Business Administration, including our finance programs, available to minority-owned businesses.

#### FISCAL YEAR 1995 BUDGET REQUEST

I would like to now highlight for you some of the important aspects of our fiscal year 1995 budget request.

##### *Business loans*

For business loans, we have requested a subsidy appropriation of \$318.1 million to support \$11.9 billion in loans. We are not requesting funding for any direct loan programs. As you know, the subsidy rate for these direct loan programs is 10 to 15 times higher than that of our guaranty programs. To get maximum leverage from limited Federal appropriations, we have proposed only guaranty programs for fiscal year 1995. We hope that with the introduction of the many changes we are proposing to our lending programs, the traditional need for direct loans will diminish. In addition, our staff believes there are few if any loans the SBA makes on a direct basis that would not be made on a guaranteed basis.

##### *7(a) program*

New subsidy appropriations for our popular 7(a) program are requested at \$207.1 million to fund a \$7.5 billion loan program, with an anticipated carry-over from fiscal year 1994 of about \$38.5 million in subsidy budget authority to support a loan program of \$1.5 billion, for a combined fiscal year 1995 program of \$9 billion. This program has grown from a fiscal year 1991 level of \$4.1 billion, to \$5.6 billion in fiscal year 1992, to \$6.4 billion in fiscal year 1993, to a projected \$7 billion in fiscal year 1994. This program carries a subsidy rate of 2.73 percent for fiscal year 1995, compared with a 5.21 percent rate in fiscal year 1993, and a 2.15 percent rate in fiscal year 1994. The increase in the subsidy rate in fiscal year 1995 is a result of technical reestimates and the inclusion of the empowerment zone initiative.

#### 7(a) GENERAL BUSINESS

[Dollars in millions]

Fiscal year	Subsidy rate (percent)	Subsidy budget authority	Program level	Increase	Percent change
1992 actual .....	4.85	\$272.8	\$5,624.3	.....	.....
1993 actual .....	<sup>1</sup> 5.21	334.0	6,409.9	\$785.6	14.0
1994 estimate .....	2.15	<sup>2</sup> 150.5	<sup>2</sup> 7,000.0	590.1	9.2
1995 request .....	<sup>3</sup> 2.73	<sup>4</sup> 245.6	<sup>5</sup> 8,995.0	1,995.0	28.5

<sup>1</sup> Weighted average, includes subsidy rate of 5.47 percent for 11 months and 2.75 percent for one month.

<sup>2</sup> Projected usage estimated at December 1, 1993.

<sup>3</sup> Includes .49 percent for reestimation of secondary market fees and .09 percent for impact of empowerment zone activity and economic assumptions.

<sup>4</sup> Includes estimated carryover of subsidy budget authority of \$38.5 million and \$7.3 million for empowerment lending.

<sup>5</sup> Includes estimated carryover in program level of \$1.45 billion and empowerment zone estimate of \$268 million.

##### *Development company program*

Appropriations for the Development Company programs (502 and 504) are requested at \$12.4 million. This includes \$11.6 million in subsidy budget authority to fund a \$2.1 billion 504 program and \$0.8 million in subsidy budget authority to fund a \$50 million 502 program. This is another program where demand has dramatically increased over the past few years. Approvals in fiscal year 1991 were \$475 million, \$655 million in fiscal year 1992, and \$852 million in fiscal year 1993. Our fiscal year 1994 appropriated level is \$1 billion, and at the current rate of approvals that level may not be sufficient this year. This program is becoming increasingly popular and important for cities and towns working on economic recovery, because it provides long-term loans specifically to assist in economic development and reconstruction. This program carries a subsidy rate of only 0.56 percent for fiscal year 1995, compared with a 0.54 percent rate in fiscal year 1993, and a 0.51 percent rate in fiscal year 1994. The increase in fiscal year 1995 is a result of technical reestimates and the inclusion of the empowerment zone initiative.

## DEVELOPMENT COMPANY

(Dollars in millions)

Fiscal year	Weighted average subsidy rate (percent)	Subsidy budget authority	Program level	Increase	Percent change
1992 actual .....	0.76	\$5.0	\$655.3		
1993 actual .....	0.76	6.5	852.1	\$196.8	30.0
1994 estimate .....	0.54	5.7	1,040.0	187.9	22.0
1995 request .....	0.58	<sup>1</sup> 12.4	<sup>2</sup> 2,128.9	1,088.9	104.7

<sup>1</sup> Includes empowerment zone estimate of \$0.4 million in subsidy budget authority.<sup>2</sup> Includes empowerment zone estimate of \$72 million in program level.**SBIC program**

The Small Business Investment Company (SBIC) Program is an important source of equity and subordinated debt financing for small businesses. Government funds supplement private capital in independent venture capital investment companies. During the past year, this program has been strengthened by the addition of experienced management and the development of a new participating security, which will allow SBIC's to secure "patient" capital to match their long term venture investments. Title IV of Public Law 102-366, Small Business Credit and Business Opportunity Enhancement Act of 1992, when implemented will significantly increase the flow of private capital into the program.

For fiscal year 1995, we are requesting \$730 million in program level for the SBIC Program, including \$500 million for the participating security at a subsidy rate of 8.99 percent, and \$230 million for debentures, at a subsidy rate of 15.99 percent for regular SBIC's and 29.59 percent for specialized SBIC's. Of this total, \$165 million will be available to regular SBIC's, up from \$100 million in fiscal year 1994, and \$65 million to the specialized SBIC's, up from \$17.9 million in fiscal year 1994, which invest only in businesses owned by persons who are socially or economically disadvantaged.

## SBIC PROGRAM

(Dollars in millions)

Fiscal year	Regular SBIC			Specialized SBIC		
	Subsidy rate (percent)	Subsidy budget authority	Program level	Subsidy rate (percent)	Subsidy budget authority	Program level
1992 actual .....	14.29	\$8.6	\$60.1	27.30	\$3.4	\$12.3
1993 actual .....	15.40	9.8	63.4	28.88	3.2	11.0
1994 estimate .....	<sup>1</sup> 11.36	35.0	<sup>2</sup> 307.8	29.92	5.3	17.9
1995 request .....	<sup>3</sup> 10.73	<sup>4</sup> 71.4	<sup>5</sup> 665.2	29.59	<sup>6</sup> 19.2	<sup>7</sup> 65.0

<sup>1</sup> Subsidy rate is a blended rate of 9 percent for participating securities and 16.25 percent for subordinated debentures.<sup>2</sup> Includes \$207.8 million in program level for participating securities<sup>3</sup> Subsidy rate is a blended rate of 8.99 percent for participating securities and 15.99 percent for subordinated debentures.<sup>4</sup> Includes \$2.4 million in subsidy budget authority for empowerment zone<sup>5</sup> Includes \$15 million in program level for empowerment zone, \$150.2 million of debentures and \$500 million of participating securities.<sup>6</sup> Includes \$4.4 million in subsidy budget authority for empowerment zone.<sup>7</sup> Includes \$15 million in program level for empowerment zone.**Microloan program**

We are requesting that the Microloan program be converted to a 100 percent guaranty program in fiscal year 1995, and funded at \$7.9 million to provide a \$65 million loan program. Approvals in this program were \$13 million in fiscal year 1992, and \$22 million in fiscal year 1993. Our fiscal year 1994 program level, including amounts carried-forward from fiscal year 1993 is \$87 million. The subsidy rate for this program is 12.16 percent for fiscal year 1995.

## MICROLOANS

(Dollars in millions)

Fiscal year	Subsidy rate (percent)	Subsidy budg- et authority	Program level	Increase	Percent change
1992 actual .....	17.33	\$2.2	\$12.7		
1993 actual .....	15.95	3.6	22.4	\$9.7	76.4
1994 estimate .....	10.15	<sup>1</sup> 2.8	<sup>1</sup> 27.5	5.1	22.8
1995 request <sup>2</sup> .....	12.16	<sup>3</sup> 7.9	<sup>4</sup> 65.0	37.5	136.4

<sup>1</sup> Estimate of actual fiscal year 1994 usage as of January 1994.<sup>2</sup> Request to convert from a direct program to a guarantee program.<sup>3</sup> In addition, \$5.4 million would be available as carry forward subsidy B/A if Congress allows us to transfer from the existing direct program to the newly created guarantee program.<sup>4</sup> In addition, \$44.2 million would be available as carry forward program level if Congress allows us to transfer from the existing direct program to the newly created guarantee program.*Disaster operations (salaries and expenses and loans)*

I would like to take a few minutes to provide you an update on our response efforts to the Northridge, California Earthquake. As you are aware, the SBA is again a major player in the Federal response effort to the recent disaster activity in Northridge, California. The President has taken a particularly personal interest in assuring that this response effort is the best that it can be, and I have assured him that I will do whatever it takes at the SBA to do our part. Therefore, I have traveled several times to California to review our operations there and to coordinate our efforts with the other Agencies and response teams. We are watching the volume of activity from this disaster grow daily. It truly appears to be the biggest disaster that the SBA has had to respond to in a long time, and maybe the largest ever in our 40 year history.

Four weeks after the California disaster we have conducted 297,000 interviews and received 43,000 applications. This compares to 116,000 interviews conducted and 41,000 applications received 18 months after the Hurricane Andrew disaster. Also, we have already approved 2,765 loans for \$86 million. We have a disaster response team of about 1,950 employees now primarily working out of Los Angeles and our Disaster Area 4 Office in Sacramento to provide the assistance that is needed.

## DISASTER COMPARATIVE STATISTICS—NORTHRIDGE EARTHQUAKE, MIDWEST FLOOD, HURRICANE ANDREW (FL)

(Six weeks after the declaration)

	Northridge earthquake	Midwest floods	Hurricane Andrew
Interviews .....	335,130.0	64,108.0	65,655.0
Summary declaration .....	8,902.0	1,442.0	2,980.0
Applications issued .....	325,773.0	61,516.0	62,563.0
Applications received .....	69,257.0	8,131.0	13,043.0
Applications processed .....	11,065.0	6,302.0	7,822.0
Applications withdrawn .....	186.0	157.0	123.0
Loans approved .....	6,017.0	4,037.0	4,340.0
Loan amounts approved .....	185,318.6	96,053.1	129,274.9
Loans declaration .....	4,862.0	2,045.0	3,359.0
Applications in process .....	49,735.0	1,427.0	4,386.0

I would also like to take this opportunity to thank you personally for your quick response in addressing our funding needs through the release of our contingency funds and the provision of supplemental appropriations. These additional funds were critical to our ability to respond as timely and in such force as we have, yet enable us to take care of the many much smaller disasters that still require our attention and support.

With the release of the contingency funds and the supplemental appropriation that was provided, we now have available \$105 million to support the administrative costs of the California disaster and \$1.5 billion in loans. This is in addition to

the \$97.7 million for administrative costs and \$817 million for loans that we have available for other disaster support activities. Also, there remains \$75 million in loan contingency budget authority representing another \$326 million in program level that can be released, if needed.

#### DISASTER ASSISTANCE

(Dollars in millions)

Fiscal year	Subsidy rate (percent)	Subsidy budget authority	Program level	Increase	Percent change	Salaries and expense
1992 actual .....	33.93	\$265.3	\$781.7			\$59.4
1993 actual .....	20.58	291.5	1,418.6	\$636.9	81.5	109.7
1994 estimate .....	22.99	<sup>1</sup> 607.7	<sup>2</sup> 2,642.8	1,224.2	86.3	162.7
1995 request .....	<sup>3</sup> 12.67	<sup>3</sup> 52.2	411.6	(2,231.2)	(84.4)	<sup>4</sup> 20.5

<sup>1</sup> Includes carryover of \$132.8 million, released contingency of \$145 million, \$75 million contingency not activated and \$254.75 million supplemental.

<sup>2</sup> Includes carryover of \$577.8 million, released contingency of \$630.7 million, \$326.2 million contingency not activated and \$1.108 billion supplemental.

<sup>3</sup> Includes proposal to increase interest rate.

<sup>4</sup> In addition, it is estimated that \$40 million will be carried forward from fiscal year 1994 with \$20 million needed to support the L.A. quake.

Now, I'd like to outline for you our fiscal year 1995 request for the disaster program. We have requested \$20.5 million for the administrative costs of this operation in fiscal year 1995. This estimate assumes that we will have sufficient carry-forward funds from fiscal year 1994 under our existing contingencies. We expended \$110 million in disaster salaries and expenses in fiscal year 1993 and are anticipating expending about \$163 million in fiscal year 1994, barring any additional major disaster activity.

We have also requested a subsidy appropriation of \$52.2 million for the disaster loan program that will provide for a fiscal year 1995 disaster loan level of \$412 million. This program carries a subsidy rate of 12.67 percent for fiscal year 1995, compared to the fiscal year 1994 subsidy rate of 22.99 percent. The increase in the subsidy rate is a result of technical reestimates, and our legislative proposal to increase the interest rate to the Treasury market rate plus one percent (estimated to be 6.93 percent). Approvals in this program were \$381 million in fiscal year 1991, \$782 million in fiscal year 1992, and \$1.4 billion in fiscal year 1993. We estimate that with the California Earthquake, our fiscal year 1994 approvals could reach \$1.8 billion. We also anticipate that an additional \$300 million in approvals from the California Earthquake will occur in fiscal year 1995.

To support the ten-year average loan program level of \$412 million and to maintain our disaster loan servicing operations, we will require approximately \$60 million in salaries and expenses funding for fiscal year 1995. Of the \$202.7 million currently available for salaries and expenses in fiscal year 1994, we project that we may carry forward as much as \$40 million into fiscal year 1995.

#### *Surety bond program*

We have requested an appropriation of \$5.4 million for the Surety Bond program. This request will support a program level of \$1.8 billion in new bond approvals. As you know, the Surety Bond Program remains one of our most popular programs and has a historically low loss rate of about 2 percent, thereby enabling a significant leveraging of Federal funds. Approvals in this program were \$1.1 billion in fiscal year 1991, \$1 billion in fiscal year 1992, and \$1 billion in fiscal year 1993. Our fiscal year 1994 appropriated level is \$1.8 billion. This program does not come under Federal Credit Reform, and therefore, has no subsidy rate attached to it.

In addition, we have significantly reduced the funding required for our Office of Surety Guarantees because we anticipate this program will be operated far differently in fiscal year 1995. We anticipate converting 100 percent of the Surety program to our preferred program which now makes up 22 percent of our surety business. Such a conversion will still allow us to extend \$1.8 billion of surety bond guarantees to the small business community while reducing our cost by \$2.2 million and our surety personnel by 49 FTE's. This restructuring of the surety program will mean that we will no longer underwrite bond approvals or process claims and recoveries. This action will greatly reduce the administrative costs to the SBA, result in faster approvals for the contractors, and faster claim payments to the sureties.

#### *Minority business development*

We are taking an aggressive "ground-up" approach in assessing the objectives of our Minority Small Business program. In the coming weeks we will be proposing a legislative package to you that outlines our proposals for this program. We are very excited about these proposed changes and we see them as a workable solution to a program area that has not been effective in meeting the needs of our minority and disadvantaged small business customers.

Our request is \$23.32 million for the Office of Minority Small Business, and, in addition, we are requesting \$500,000 to complete the long delayed automation initiatives for the Minority Small Business program.

#### *Procurement assistance*

The budget request for the Office of Procurement Assistance is \$16.4 million. This office ensures that small businesses receive a fair share of government procurement opportunities. This is done through the on-site location of procurement center representatives at major government installations and through the continuous monitoring of government contracting and subcontracting activities, and through the negotiation of procurement goals with other agencies. Additionally, the office manages the Procurement Automated Source System (PASS), which contains data on the capabilities of 222,000 small firms interested in doing business with the government. This data is used by hundreds of Federal procurement officials and large prime contractors to find qualified small businesses. The office also issues Certificates of Competency (COC), which document a firm's ability to successfully perform on government contracts.

#### *Business development programs*

The SBDC program is requested at \$67 million. This program is designed to assist small businesses by linking federal, state, and local governments and the private sector to provide management and technical assistance to the small business community. The SBDC program currently has a network of 56 lead SBDC's located in 49 states and approximately 868 subcenters and satellite locations.

As I previously mentioned, we have requested \$3.2 million to support the four existing Export Assistance Centers and the ten additional centers proposed for fiscal year 1995. We have also requested \$18.7 million for the nine "One-Stop Capital Shops" within the Empowerment Zones, including \$15.1 million to support \$375 million in financial assistance programs, \$1.1 million for Microloan technical grants, \$720,000 for Business Information Centers, and \$1.7 million for project management.

We have included \$3.2 million in additional funding for staff training, which has long been neglected in this Agency. With fewer people, we have to train our people properly so we can be more productive. We currently have a portfolio of over \$25 billion in loans. This large portfolio of loans combined with the level of customer service that is necessary at the SBA will require skillfully trained and competent staff in all of our offices. Included in this training request are \$1.7 million for Economic Development programs training, \$500,000 for Minority Enterprise Development training and \$1 million for centralized training in support of our other Agency program areas.

We are not seeking funding in the fiscal year 1995 budget for any unauthorized initiatives, nor for the Small Business Institute program or the Tree Planting program.

#### *Regular salaries and expenses*

This budget request is consistent with the President's overall administrative and spending reductions, and will provide SBA with the resources necessary to deliver and administer our programs and services under our proposed streamlined organizational structure. The fiscal year 1995 Salaries and Expenses funding request is for \$418.3 million and an FTE level of 3,741, excluding the Office of the Inspector General, whose budget request is separately included.

#### *Office of Inspector General*

The budget request for the Office of Inspector General (OIG) includes an increase of \$490,000. The increase will provide for a modestly expanded use of contract audit and inspection services for reviews of Section 7(a) programs, minority small business programs, financial statement audits, and other key SBA activities. The Agency fully supports this request as being essential to fund critically needed OIG audits, investigations, and inspections—all of which save Federal dollars, deter further violations of law, and help ensure SBA's positive impact on the small business community. A viable OIG will become even more important as the Agency's business loan activity increases to a projected \$9 billion level in fiscal year 1995.

Since fiscal year 1992, the OIG's staff level has decreased by 8 percent while its audit, inspection, and investigative universe has grown from about \$23 billion to over \$26 billion. With its staff reductions, the OIG has had to manage its resources very carefully over this period to remain responsive to the Agency's needs and to fulfill its reporting responsibilities to the SBA Administrator, the Congress, and the general public. Given its current workload and limited resources (requested FTE level of 104), the requested \$490,000 is essential if the OIG is to provide sufficient coverage for the Section 7(a) program.

#### *503 prepayment penalty*

As you know, our 503 Development Company debenture borrowers have been unable to take advantage of reductions in the interest rates over the past few years due to the exorbitant prepayment penalty associated with early redemption of 503 debentures. Our fiscal year 1995 budget request includes \$30 million in appropriations to help offset these penalties imposed on the borrowers. The prepayment program would allow high interest 503 borrowers to redeem or refinance their debentures as if they had borrowed under our 504 program using the same prepayment penalty that is in the 504 loan agreement. The associated penalty, which would go to the Treasury as an interest differential, would be forwarded by the SBA from this appropriation.

#### *New fee initiatives*

This budget request includes four specific fee initiatives proposed to assist the Federal appropriations process by generating \$26.4 million in revenues to the SBA. Absent these fees, an additional appropriation of \$26.4 million would need to be provided to fund the requested program levels and initiatives.

First, we propose to establish a \$15 per hour fee for counseling SBDC customers. We estimate this will generate \$17 million in revenues in fiscal year 1995. We believe that this proposed fee is not only reasonable in view of the valuable services that SBDC counselors provide, we also believe that it will cause small business owners to use this program more wisely. We would also note that this fee is well below private sector market rates for similar services.

Second, we propose to charge a fee for all business development publications distributed by the SBA. These charges would range from about \$0.50 to \$1.50, and would be used to offset the cost of printing, mailing, and distribution. We estimate generating \$1.15 million in revenues from this fee in fiscal year 1995. Again, we believe that this minimal charge is reasonable, and below prevailing market rates considering the value of the product.

Third, we propose to charge a fee to our loan recipients who request changes to the terms and conditions of their loans. These changes are a routine part of servicing loans, and are widely accepted in the commercial banking arena. Some typical instances in which we propose to charge this fee include: filing liens, subordinations, change of guarantors, and substitutions of collateral. A typical fee for executing such changes would be about \$75, which we estimate would generate \$7.2 million in revenues to the SBA in fiscal year 1995. These fees would be collected through our participating lenders, and remitted to the SBA.

The final fee involves charging users for certain optional features on the Agency's first computer-based electronic bulletin board. This service, SBA On-Line, provides immediate, around-the-clock access to information on SBA's services, publications and programs, and users access through electronic gateways to other bulletin boards that contain information important to small businesses. The current 1-800 number was provided to SBA at no cost for the first year only. Due to the overwhelming response to this service (almost 800,000 calls since last year), the 1-800 number in fiscal year 1995 will only be provided for initial access to SBA's general information. Users who wish to access other bulletin boards through the electronic gateways or who want to post and receive messages, will be assessed a user fee. This fee is expected to generate \$1 million in revenues to offset the expected \$1.5 million cost of providing this service. The Agency estimates this will amount to approximately \$35 annually to a user, which is approximately one-fourth of comparable commercial rates for similar services.

This concludes my summary of our fiscal year 1995 budget request and some of the significant initiatives that we will be undertaking at the SBA over the next year or so. I would be happy to answer any questions that you may have for me.

#### SUMMARY STATEMENT

Mr. BOWLES. Thank you. I do think that we have accomplished a lot in our first 9 months together—thank you very much.

Ms. BLEVINS. You are welcome.

Mr. BOWLES. We have tried to build a team at the SBA, and I do think the team is the way you get something accomplished. The team has been built without regard to race, without regard to gender, and I should also say, without regard to party.

It is a team that really is dedicated to working with the small business community to make it more efficient and more effective. We did develop a reorganization plan from the bottom up, which is the way I think all good organization plans are developed. It does enable us to do exactly what you instructed us to do the last time I came before you, and that is shift a greater percentage of our assets to the field. I do subscribe to the management philosophy that you ought to put your assets where your customers are. Our customers are the owners of small businesses, and we are shifting those assets.

By the end of 1995 we will have shifted 16 percent of our people out of Washington to the districts; we will have shifted 80 percent out of our regions to our districts. We will be delivering better customer service, and we will be downsizing the SBA by about 16.1 percent as it relates to people.

We also held a series of town hall meetings throughout the country where I got a chance to listen to the concerns and ideas of small business people. I met with 2,500 small business owners, over 400 lenders and about 1,000 SBA employees, and I was amazed at how many of those SBA employees had never even met an Administrator. Again, a lot of the changes that we are making to our programs are a direct result of those meetings.

Let me talk to you about some of the changes. First, thanks to you we did revise our 7(a) lending program. I think 1994 is the first time in recent memory where an SBA Administrator has not had to come back and ask you for a supplemental appropriation. I committed to you if you would grant us our savings initiatives, which allowed us to save \$180 million, that we would manage our budget and meet the needs of the small business community, and we have done that. Instead of having a program that spent \$330 million a year to put \$3.5 billion to \$5 billion out in the marketplace, we spent about \$150 million and put about \$8 billion out in the marketplace. I think that is a better use of the taxpayers' funds.

We have also taken a look at the documentation required to borrow money from the SBA. I cannot tell you how many people I met who said, "I would rather throw up than borrow money from the SBA. The forms are a nightmare. The bureaucracy is unbelievable." They are right. This is the application for an \$18,000 loan from the SBA in San Antonio, TX, in 1993. This is the application today. You can change bureaucracy and paperwork. You just have to do it smartly.

#### WORKING CAPITAL

We had a working capital program at the SBA. It was not used. That is almost ludicrous to imagine. Working capital is that form of capital that the small business community is most starved for. It was clearly evident as I talked to the bankers and to the small business owners that we had a program that nobody used, and the

reason it was not is that it was a term loan disguised as a revolver. It did not work. It was created in the ivory tower here without input from the private sector.

We went out to the private sector. We got a lot of input from various lending organizations all the way from the community development banks to the major money center banks. We have a program that is going to work, and we are going to introduce it in late March, and we think we can really go along way toward solving that need in the marketplace.

#### EXPORT REVOLVING LINE OF CREDIT

The same problem exists in the export revolving line of credit. It was designed in the ivory tower; it did not work. We have redesigned it again with input from the private sector. We think we have a program that will work.

#### SMALL BUSINESS INVESTMENT CENTERS

The SBIC program is another program where there were a number of problems. Again, this was a case of a security where there was classic mismatch of sources and uses of funds. We would loan money to the venture capitalists who would in turn loan it to the small businesses. It did not work. The last thing a start-up small business needs is current paid capital. What they need is all the capital they can get for working capital to finance their future growth and capital expenditures so they can remain competitive in this global market place.

We, again, with input from the private sector firms in the venture capital community, have redesigned that program. We think we do have security that will work. We have also brought in new management from the private sector. I do not think there is a more knowledgeable or respected person on Wall Street than Bob Stillman, and Bob is running our SBIC program, and I guarantee you in the future, we will only license highly experienced, highly capable venture capitalists who know how to manage that money.

#### 8(A) PROGRAM

The 8(a) program, another program that was just a mess, is a program that I committed to the Congress that we would fix, and we are well on the way toward doing that. We can talk about that if you would like.

#### SERVICING CENTERS

We have also laid the plans to accomplish much more. The SBA has a real action plan with real goals, real objectives, real time lines, with real people held accountable for accomplishing those, and that is throughout our districts and our regions and our central office. The action plan is built around a couple of initiatives: First, we are setting up some loan servicing centers, which are very similar to what I experienced in the private sector. It is a much more efficient, effective way to operate. We plan to expand the one we have out in Fresno to cover regions 6 through 10; to open up a new one, when I can afford it, in Arkansas, to cover regions 1 through 5; and to have a loan processing center in Sac-

ramento. Our currency rate in our Fresno Loan Services Center, just as an example, is 9 percent better than the rest of the organization.

#### EXPORT ASSISTANCE CENTERS

In conjunction with the Department of Commerce, the U.S. foreign and commercial services operation and the Exim Bank, we have opened up four export assistance centers. We have harmonized our program with those of the Exim, and we plan to open up 10 additional ones in 1995 and have requested \$3.2 million in funding for that.

#### ONE-STOP CAPITAL SHOPS

Again with the one-stop capital shops in the empowerment zones, we are trying to get capital into the hands of those areas that are clearly the most starved for capital: Our poor rural communities, our inner cities, those small businesses within those areas that are owned by women, owned by minorities, and particularly those seeking capital of less than \$200,000. Again, we can talk about it if you like, but it is a truism that almost regardless of the liquidity system and the banking system, it is very difficult for someone in that area to get a loan of less than \$50,000.

#### NEW LOAN PROGRAMS

The low doc program I talked to you about here. We are also going to go to a no doc program or what SBA calls a loan express program where we are going to reduce our guarantee from the 75 to 90 percent area to only 50 percent with a test market that was started in banks throughout the country, and we are going to use their forms in their entirety and we are going to process it electronically. We are going to try to join the 20th century before it ends.

#### SALARIES AND EXPENSES

Let me now, if I could, highlight some of the aspects of our budget. In the area of salaries and expenses we have requested \$11.4 million less in 1995 than we have in 1994. I would like to talk to you about the full-time equivalents. We are authorized at 3,814 for 1994. We are authorized for 3,741 in 1995, but this authorization level is just meaningless because we are functioning now with only 3,689 employees with an authorization level of 3,814. It is because I cannot afford them. Locality pay got passed along to us, costing approximately \$5.1 million in 1994 and \$6.8 million in 1995. I have to absorb that by reducing personnel.

I am going to have the same problem in 1995 when I am authorized for 3,741, but I am only going to be able to fund approximately 3,616. And if, in fact, the Congress grants another pay increase in 1995 to the employees, currently estimated at 1.6 percent, I am going to have to operate with a further reduction of 45 people.

#### SMALL BUSINESS DEVELOPMENT CENTERS

For the SBDC operation I have requested \$67 million versus the \$71.3 million we have this year, and I believe that we can manage

it at that level. In the SBI program, while it is a program we feel very strongly about, we have not requested funding in 1995.

We have requested no funds for tree planting. I have requested additional funding for training. For a long period of time the SBA has not been anybody's favorite area of funding and since, during the Reagan administration they tried to abolish the SBA and during some of the Bush administration they ignored it, people did not spend a lot of time thinking about spending money for long-term purposes. They had a short-term focus. Therefore, they did not spend any money on training. If you have a long-term focus, you darn well better spend some money on training, and we have some catching up to do in training our people so we can adequately manage these funds that you are going to appropriate to us, so I have requested additional money for training.

#### SURETY BOND PROGRAM

For the surety bond program we requested converting that program to 100 percent of our preferred program. That will save us about 50 percent of the funds we are spending there but still allow us to put \$1.8 billion into the marketplace. We will no longer underwrite bond approvals or process claims and recoveries in order to reduce administrative costs. That will result in faster approval for contractors and faster claim payments to the surety.

#### NEW FEES

We have asked for some new fees. We asked for \$26.4 million in fees. Absent those fees, we would need \$26.4 additional million in appropriations. We have asked for fees for the SBDC's at \$15 per hour. We have asked for SBA loan publication fees of 50 cents to \$1.50 per publication. We have asked for a few loan modification fees that are less than those charged in the private sector; and we have asked for some fees on our electronic bulletin board to access some additional gateways that we make available to the small business customer. I will talk about any of those that you would like to discuss.

#### BUSINESS LOANS

Business loans, we have asked for a \$318 million appropriation for 1995 to fund \$10.5 billion of lending. We are estimating that we will have carry over authority of about \$38.5 million, which will take us up to \$11.9 billion. That compares to \$8.4 billion in 1994 and \$7.4 billion in 1993.

I will just conclude by saying that we have not asked for any direct loan money, and the reason we have not is the taxpayers just do not get a very good bang for their buck of that money. I can take that and put it under our guarantee program and I can get 10 times the bang for the buck. As an example, you have appropriated \$13.5 million in 1994 for direct lending excluding micro loan. I can take that \$13.5 million, and I can only fund \$50 million in program level. I can take that same \$13.5 million under our guarantee program and I can approve \$496 million. I just get much more bang for the buck under a guarantee program than I do under a direct program.

## DISASTER LOANS

In summary, let me just mention the disaster program. This disaster in California is enormous. It is just incredible. Just to put it in perspective so you will have a feel for it, in the first 15 days of this disaster we had 243,000 interviews for loans. In the first 15 days of Hurricane Andrew we had less than 19,000 interviews. In the first 15 days of the California disaster we have received loan applications of almost 20,000. In the first 15 days of Andrew, we only received 599. The magnitude is incredible.

We do believe that based on the information we have available today, we will have enough carryover funds going into 1995 that we will not need to request that the interest rate on these disaster loans be raised to the Treasury rate plus 1 percent. We believe that we can get by with the current credit subsidy budget authority and meet the needs of the marketplace.

## 503 PREPAYMENT PENALTY

The last thing is the 503 prepayment penalty. We did request \$30 million to help offset what is clearly an onerous prepayment penalty contained in this 503 loan program. I should stress here that we are not going to allow anyone to refinance who does not have the credit strength to refinance. They would have to qualify through our 504 program to do that so it is not a bailout. All we are doing is changing the prepayment penalty in the 503 program to match that of the 504 program and the \$30 million appropriation would be used to pay the Treasury the differential between the onerous 503 prepayment penalty to the 504.

## 1995 REQUEST

In summary, we are requesting \$806 million. That is \$18 million more than you gave me last year, but I would like to remind you, that is \$402 million less than I got in 1993. While our appropriations are decreasing in that amount, our lending programs have gone from \$7.4 billion to \$11.9 billion. Thank you.

Senator HOLLINGS. Very good. You have got the team and the scheme developed, but they do not seem to be deployed for these, I call it a disaster area, where you close down a Navy yard and a naval base both in the same community. The President has characterized it as such, we lose some 22,000 jobs and are losing them fast, and as a result, the President has Secretary Perry come; he has had EDA executives come to Charleston; he has had the State Department and NOAA officials come down, and we had meetings over at the White House, at least three. The President wanted to show that when we had these closings that we could recover and recover fast and everything else. Every time we called SBA they say, "Huh?" You are the only nonparticipant in defense economic adjustment. That team is not deployed to Myrtle Beach where we closed down the air base there, and they are not deployed down in the Charleston area, where we have got 22,000. We keep asking for some participation, and they cannot think of any. I just want to note that because this has been an ongoing operation there.

SBA is proposing empowerment zones and you are running around looking for places to pick up, guaranteeing \$375 million in

these empowerment zones, but you have got 22,000 direct jobs lost, and they do not seem to have any help for defense conversion. SBA seems to be out of the loop on defense conversion. We have got positive interagency Federal programs; we have got all kinds of appropriations; we have got all of the agencies from the White House down, but not SBA.

Mr. BOWLES. I accept that criticism, and I will look into it, and I will report back to you.

Senator HOLLINGS. I appreciate it. By the way, I should have recognized that our good colleague and chairman of the small business authorization committee, Senator Bumpers, would have been here. He had a previous commitment. I think he corresponded with you to that effect.

#### 503 PREPAYMENT PENALTY

You do have the user fee proposals of \$26 million, but I had not gotten through the \$30 million writeoff just to subsidize these section 503 guaranteed loans given out previously. We had you propose that at the end of last year with a last minute request before conference. We did not approve it because we factored it out at that time that approximately 700 people would be refinanced under section 503 loans. If that is the case, that would be \$43,000 per person at the taxpayers' expense. We would be paying the prepayment penalty for these borrowers.

Why do we all of a sudden gratuitously come and say we are going to help out these 700 people here to the tune of \$43,000 per person, and then come in here and ask for \$30 million at Uncle Sam's expense, and then propose user fees and cuts in ongoing SBA programs?

Mr. BOWLES. Mr. Chairman, I think I have a good reason. If I did not have a good reason, I would not ask you for these funds. First of all, the prepayment penalty in the 503 is like nothing you have ever seen in the private sector. It is the most onerous prepayment penalty I have ever witnessed. Two, I do not believe there is a single person who borrowed funds under the 503 loan program that took one look at that prepayment penalty, and if they did, I do not think there is a single person who understood it.

There are about 3,618 loans outstanding with a total value of about \$583 million. The total cost if all prepaid would be about \$163 million. We are not talking about allowing all of them to just willy-nilly prepay, and we would prepay under the 504 and pay the 504 prepayment penalty.

What we are saying is that they must first qualify for a 504 loan or they must come up front with their own funds from the outside in order to be able to qualify for this. But we believe that \$30 million can handle most of the needs for folks who will prepay. We believe about 20 percent of these people will take advantage of this.

From most of the information and the research we have done, we also believe that those people who do take advantage of it will be able to increase their employment by about 14 percent. SBA's research indicates that will create 18 million to 20 million dollars' worth of new taxable revenue coming into the Government over the next 4 years if we undertake that activity.

I think the 503 prepayment penalty was unfair; I do think that if the 503 prepayment penalty was in the private sector, the Congress would be all over those private lenders for having a prepayment penalty that was that onerous.

#### 7(A) SUBSIDY RATE

Senator HOLLINGS. The subsidy rate in section 7(a) loan guarantees, we brought that subsidy rate down from 5.21 to 2.15 percent.

Mr. BOWLES. Yes, sir.

Senator HOLLINGS. Now we are going back up to 2.73 percent. It seems like we are going in the wrong direction.

Mr. BOWLES. We actually came down. When I got here it was 5.47 percent. We did get it down to 2.15 percent. Now it is going back to 2.73 percent. Forty-nine of those basis points are because OMB overestimated the amount of the income that we would have coming in from the secondary market in splitting the fees above on the sale of securities above 110. They estimated that about \$25 million would come, and we now estimate only \$12 million coming in. So 49 of the 58 basis points gained are due to that technical adjustment, and the other 9 points are due to the empowerment zones.

Senator HOLLINGS. I understand. Let me ask about this and just two others. I want to yield to Senator Domenici.

Senator DOMENICI. Thank you very much.

#### MINORITY BUSINESS DEVELOPMENT AGENCY

Senator HOLLINGS. The Minority Business Development Agency, are you coordinating with that agency, because you say you want to discuss assistance to minority businesses. In the empowerment zone proposal you have, you would have SBA setting up new offices in primarily minority areas.

We are just wondering. We either give it to you and let you run with it or give it to Commerce and MBDA and let them run with it. Again, are we starting more duplication between Federal programs?

Mr. BOWLES. No, sir; MBDA and EDA would be in these offices in the empowerment zones. The one-stop capital shops really make a lot of good common sense, Mr. Chairman. Basically, all they do is bring together the SBA's lending programs and the SBA's advisory programs and put them there together. I have direct experience in this. One of the things I helped get started was the North Carolina Self-Help Credit Union where initially we just gave advice, and advice will only carry you so far. We then got a grant from the Z. Smith Reynolds Foundation, and we did something equally stupid: We gave just money. It was not until we married the advice and the money that it really began to make some sense.

This, in fact, is what we are doing in the empowerment zones. We will require the people who borrow money from the SBA to have there beside them the use of our SBDC operations, our score operation and our business information center so they will have someone there who will be giving them advice during the year. We think this will reduce our risk and greatly increase the probability of our getting our money back and that the business will survive, and that is what we are trying to do.

Senator HOLLINGS. Senator Domenici?

## DISASTER LOAN PORTFOLIO

Senator DOMENICI. Very good. Thank you, Mr. Chairman.

Let me address the part of your responsibility for disaster loans and generally speak to the large portfolio that you have of direct loans and guaranteed loans.

Mr. BOWLES. Yes, sir.

Senator DOMENICI. You know, every now and then a shocking story is presented in a newspaper article about some agency of the Government that has lending authority. To everyone's dismay they are 5 years behind on collecting on defaults. There are mortgages out there that cannot be collected, or as we found the other day at the Department of Agriculture, we are not supposed to even collect on; we are supposed to be gladly helping support the American family farm.

I want to ask you generally: Can you state to this committee that you or somebody under your direction has taken a look at the past history in terms of loans and that you are satisfied that you are in reasonably good shape and that you could give us an assessment of the status of those large portfolios in terms of what we might expect by way of losses that we might not understand and have on the books here today?

Mr. BOWLES. I can tell you that we have taken a look. I can tell you that we have had outside parties, William Adler and Arthur Andersen, take a look since I arrived. I can tell you that the information that we received was inadequate.

Senator DOMENICI. From them?

Mr. BOWLES. Yes; I can tell you that we cannot sit here and tell you that there are not surprises in that loan portfolio that we have inherited.

Senator DOMENICI. What do we do about it, about the fact that they are there?

Mr. BOWLES. We have to now continue with the study that we have underway to make sure that we understand where the problems are. I do not believe in my gut there are any big surprises in there, and that is what the Arthur Andersen report that I just received a draft copy of says. But, again, I do not want to sit here and tell you that I am 100 percent comfortable today that we have done all the homework on that portfolio to identify all the problems.

Senator DOMENICI. Mr. Chairman, I think that we spend a lot of time and attention on the agencies that we fund, and I believe at some point we might want to consider helping him by writing into the appropriation bill what kind of reviews he ought to have done in a year and if there is a little resources that has to be switched around so he knows he has the money to do it.

Mr. BOWLES. I would welcome that.

Senator DOMENICI. I really believe that the worst thing that can happen to an agency like this where you have some really good goals, you are really trying to have more of an impact in the small business area, would be to find that surprisingly, we have got \$1 billion that we are going to lose of loans that we did not know about.

Senator HOLLINGS. Could I comment on this?

Senator DOMENICI. Sure.

Senator HOLLINGS. We had this experience on the San Andreas fault. Incidentally, 20 years ago in another hearing NOAA officials and the earthquake officials said we would have a serious earthquake in the California area within a 20- to 25-year period. I asked, like the weather, "Are you talking about a 10-percent chance or a 50-percent chance?" The answer was, "100 percent." Yes; they predicted it.

But let's not predict what happened then, because Senator Tunney was here at that particular time. We went out to Los Angeles and we had hearings. They had a veterans hospital fall through the San Andreas fault, and that is a disaster, and we helped the best we could. But the word got out that all you needed was one of those FEMA grants of \$3,500 or a little bit more, and they never were going to come back and do any collecting. The district attorney just wrote them all off. It really spawned swimming pool companies, and they would go door to door, knock on the door and say, "All you have got to do is sign this paper and we will give you a swimming pool. You do not have to worry about paying," and that actually occurred.

So when you get these millions and millions and billions of requests, set up some kind of audit system so we do not just fall into another scandal, because the word is out, "Do not worry about having to pay for it." I would go get in the line out there, too, and ask for it.

#### DISASTER PROGRAM AUDITS

Mr. BOWLES. Mr. Chairman, we are monitoring them more closely; we are auditing them more closely; we are supervising them more closely. But we have inherited a pretty significant portfolio, and I do not want to speak to the portfolio we have inherited without having had the kind of research I think you expect me to do. Now, we have had that study underway, but the initial draft I received was, I felt, inadequate.

Senator HOLLINGS. Excuse me.

Senator DOMENICI. OK. Let me just move off that by making one additional comment with reference to auditing and trying to help us by not putting an agency like this where it surprises the people of this country.

I remain very concerned that we have not looked at the disaster relief laws of this country in any comprehensive way in about 15 years. We keep building on it; we had the Tunney \$3,500 gift. I recall that. Many people said it was crazy, but how could you resist it?

Senator HOLLINGS. Yes.

Senator DOMENICI. I wonder if you could, for the record, consistent with your being the Administrator of this program tell us what you think could be done better substantively with disaster relief efforts that we have given to you.

Mr. BOWLES. The whole disaster program is a very difficult one to manage. Let me give you a feel: I have about 2,300 people on the ground in California today.

Senator HOLLINGS. Yes.

Mr. BOWLES. Let me just give you this, and this will give you a feel for the magnitude of what you cannot gear up for on a regular basis: We have 2,300 people on the ground; we have had 335,000 people in the first 6 weeks after this disaster interview for loans. Just compare that to the Midwest floods or Hurricane Andrew and look at the applications issued and the applications actually received.

Almost 70,000 applications have come in, and that is in a 6-week period. We are supposed to process those within 20 days and make a good loan decision as to whether or not to put the money out. That is why the credit subsidy rate is so high in this program. The 23 percent credit subsidy rate compares to our 7(a) credit subsidy rate, like the chairman said, of only 2.73 percent, so you know we are taking a lot more risk in disaster loans.

Senator DOMENICI. Sure. We know that, too.

Mr. BOWLES. Again, having enough experienced, trained people on the ground is very, very difficult. In addition, I have to pull a number of people away from the SBA to train these people so that we can process it accordingly.

Senator HOLLINGS. Let me translate. What we are saying is: You have got the capability and you have got the track record in this field. You tell us. We will never know as much about this kind of lending and administering of the lending than you do, and we are just asking for help so that we can help you and get some kind of system.

Mr. BOWLES. Can I submit the information to you once it is available?

Senator DOMENICI. That is what I wanted.

Senator HOLLINGS. Yes.

#### APPROPRIATIONS COMMITTEE OVERSIGHT

Senator DOMENICI. I think you could do it. I think it would be interesting. We are not trying to usurp Senator Bumpers' authorizing committee, but we do fund a lot of programs that have not been looked at for many, many years and we are supposed to do a little oversight, right?

Senator HOLLINGS. That is right.

Senator DOMENICI. We claim that is why we have to do that every year. I do not, but some people on Appropriations say that is why we have to do it, because we are doing oversight. So on loan simplification here, I gathered from what my staff tells me that you started with a pilot project in Texas?

#### PILOT PROJECT

Mr. BOWLES. Yes; in San Antonio.

Senator DOMENICI. That yielded that?

Mr. BOWLES. Yes, sir.

Senator DOMENICI. Are you going to put it in nationwide?

Mr. BOWLES. Let me tell you what we have done. We have carried it from San Antonio to Dallas; we carried it from there throughout Texas to Louisiana, Arkansas, Oklahoma, and New Mexico. The results have been incredibly good. The average loan is about \$47,000, so it is reaching that market that SBA has not been serving.

Senator DOMENICI. Right.

Mr. BOWLES. Also, the average number of employees in the company we are serving is four. So again, it is that small business that has been shut off from capital markets. Again, the one thing that is absolutely true, having spent my life in this, regardless of the liquidity in the banking system, you cannot get that \$50,000 loan from the banking community because it takes as much up-front cost and time and effort to make a \$50,000 loan as it does to make a \$5 million loan.

So you have too much cost up front and once you make the loan your maintenance cost is much higher because you do not have a chief financial officer and a chief accounting officer.

Senator DOMENICI. I was only clarifying that in your opening remarks you quite properly cited this achievement. I understood it was ready to go.

Mr. BOWLES. I sent my credit people down there to verify that we are not taking undue risks with this.

Senator DOMENICI. No; that is not my point. My point is: I thought your statements would indicate you are ready to go nationally.

Mr. BOWLES. That is what I am getting ready to say. The credit people are down there now making sure we are not taking undue risks with the taxpayers' money. As soon as I get their report back, if that report is as good as we believe it will be, then we will take it nationally. But I want to look at that report first.

#### 8(A) PROGRAM

Senator DOMENICI. You mentioned the 8(a) program, which for many of us is very important. We do not want abuses, but it does give minorities a chance to get into business without, for a number of years, having to compete totally; they get a preference.

You said it was a program that had been improved since you took over. Again, I do not want it now, but would you submit for the record what you have done in 8(a) that you think has improved it?

Mr. BOWLES. Yes, sir.

Senator DOMENICI. I am very concerned that we not put minorities in a position where they are not going to get any of this assistance. Yet, I want your evaluation of how well it is being run at this point. Can you do that for the record?

Mr. BOWLES. Absolutely.

[The information follows:]

#### 8(A) PROGRAM

While we have not worked out the details for all of the proposed changes to the 8(a) program, we have focused on the following major areas: streamlining and revising the certification and eligibility process to eliminate the difficulties faced in program entry; improving the management and technical assistance provided to program participants by making effective use of our resource partners such as the Small Business Development Centers and the Business Development Centers managed by the Minority Business Development Agency in addition to the funds available under our 7(j) management and technical assistance program which we are proposing to be used exclusively by program participants; providing program participants greater access to capital by utilizing our existing loan programs; creating greater contract opportunities by streamlining the 8(a) contracting process and establishing a government-wide small disadvantaged set-aside program for civilian

agencies similar to the DOD set-aside program; development of a mentor-protege program that is mutually beneficial to both current participants and program graduates and eliminating program requirements that are burdensome, that do not contribute to the development of the firm and are not needed by the agency to ensure program integrity.

We are hoping to finalize the proposed changes to the 8(a) program by the end of March, and to develop a legislative package in April, 1994.

#### WOMEN'S BUSINESS OWNERSHIP

Senator DOMENICI. All right. With reference to women I am a little concerned about what I see in your budget. Frankly, within the Office of Women's Business Ownership Demonstration Program last year, with the help of Senator Hollings, we put in a grant program increase of \$1.5 million; we raised it to \$2 million. The program was authorized through the Women's Business Ownership Act and reauthorized in 1991.

This is a proven, effective program. In a recent survey of 1992 graduates of the California center, 80 percent reported their businesses had expanded, diversified; 63 percent had hired two or more full-time employees, et cetera.

Why are you thinking of terminating this program?

Mr. BOWLES. Senator, your question is a very good one. None of the decisions I made to cut money out of the budget were easy to make, but I have my responsibility to manage this organization efficiently, effectively and to do my part to reduce the deficit so we had to hold the line.

It will mean that we will have 10 fewer women's demonstration centers. There are now 38; we will have only 28. We are going to try to mainstream the women's programs so that we can give more advice through the SBDC's. Currently, 38 percent of the people who are being advised through the SBDC's, getting training and counseling, are women, and that is over 210,000 people who were trained last year and another 200,000 more who were counseled. So again, a large portion of that work, we think, can be done through the SBDC's.

In addition, over one-half of the people who are being trained through the microloan program are women. Last, we are going forward with a pilot project to try to get more capital access to women. Again, that, to me, is the biggest problem that women business owners have today, is having equal opportunity to capital. We are going to test market in eight markets a prequalified program where we can try to improve the capital access for women.

Senator DOMENICI. Mr. Chairman, for the record, the thing that has happened to the United States in the last 20 years that is truly something to be proud of is the growth of women-owned businesses.

Senator HOLLINGS. Exactly.

Senator DOMENICI. Frankly, 2 years ago we got a study of it, and believe it or not, women-owned businesses in the United States the year before last employed as many people as all of the Fortune 500 combined.

Mr. BOWLES. That is true. Thirty-eight percent of businesses now are women-owned businesses.

Senator HOLLINGS. His wife will be running one of the biggest before long. [Laughter.]

Senator DOMENICI. I am going to submit some questions urging that not only you continue this program that I just alluded to for women but that we increase it. I am going to make a pitch to our chairman that rather than start some of the other programs that are being proposed that we might increase that from the six centers for a few more million dollars.

My last comment on this subject: One of the things I hear most, and I have worked very hard with about 10 groups in New Mexico, is that in trying to get women assistance, technical assistance, and to package their loans, they are almost all miniloans.

Mr. BOWLES. That is correct.

Senator DOMENICI. They are really not \$500,000, they are \$50,000, \$75,000, \$30,000. One of the things we hear is that the technical assistance that is essentially provided through using retired executives—and I will say this to them, most of them are men, and that is fine. It does not mean they do not know how to help women—but women say they do not understand these small businesses, and I look at these retired people—what is the name of that program?

#### SCORE PROGRAM

Mr. BOWLES. You are speaking about the SCORE Program.

Senator DOMENICI. And they are from big companies. It is an AT&T vice president who wants to help, and it is wonderful. But he does not understand this little lady who is going to open a Mexican kitchen and already has three workers and wants to add four more. This approach gives them some technical assistance they did not have. I personally think you ought to be looking at technical assistance to small businesses, in particular, women small businesses, as they try to get capital and grow. They really desperately want to be helped, and I have some questions for the record about that.

Mr. BOWLES. Thank you very much.

#### WOMEN'S PRE-AUTHORIZATION PILOT

Senator DOMENICI. Then we have the Women's Pre-authorization Pilot Loan Program, and I am going to submit some questions on that, too.

Mr. BOWLES. We are very excited about that. We think that can really improve the access to capital for women.

Senator DOMENICI. To me, that is absolutely so. You have got to get that done up front; you have got to get them preauthorized.

Mr. BOWLES. It takes away a bank's excuse for saying no.

Senator DOMENICI. Absolutely. So it does not take so long, and when the bank gets it, they cannot say anything but yes, because it has all been worked up right. I think that is worth a little money.

#### EMPOWERMENT ZONES

My last question is an interesting one, and perhaps it is not your responsibility. Maybe you could tell me whose or maybe the chairman could. Somehow or another, when we pass these empower-

ment zones, and I am not now talking about the huge number of—what did Jack Kemp call it?

Senator HOLLINGS. Enterprise.

Senator DOMENICI. I am not talking about enterprise zones. I am talking about the empowerment zones. Frankly, they were put together in the back room as part of reconciliation. They sound wonderful, but somehow or another, amazingly, by definition Indians are written out of empowerment zones; not that they only get one, they do not get any. But it says you cannot have an Indian reservation or Indian country as part of an application or you are disqualified.

Frankly, I do not know that I want to wait for a reauthorization in fighting that issue. I would like to figure out how we can correct that in one of these bills. I do not understand why we did that. I was not there, as you know. I was not invited to those conferences. Do you have any idea why that might be? Why would they have written that?

Mr. BOWLES. No, sir.

Senator DOMENICI. Is it asking you too much to try to find out from the executive branch what they might think about at least letting them apply? Could you try to do that?

Mr. BOWLES. Absolutely. It is appropriate, too. I have a seat on the empowerment zone board, so I will be happy to do that.

Senator HOLLINGS. An Indian reservation is an empowerment zone.

Mr. BOWLES. Right. There is one Indian reservation that is an empowerment zone, I believe.

Senator HOLLINGS. Yes.

Senator DOMENICI. Well, the combination of non-Indians and Indians to make up one, if you put the Indians in with a city and a county and say, "Here is a real zone and we work it all together," the whole application falls under the definition.

Mr. BOWLES. Right.

Senator DOMENICI. If you would do that, I would greatly appreciate it.

Mr. BOWLES. I will be happy to.

Senator DOMENICI. I will submit three other questions and thank the chairman very much for yielding to me. I greatly appreciate it.

Senator HOLLINGS. Thank you very much. On the empowerment zones, just as a comment, I have been in the game now at least 40 years trying to get industry and try to locate, and I would love to have located in downtown Charleston, SC, in a little old area, what we call the little Mexico area, and we had this crowd out of Minnesota that helped us. I forget his name now, right over here in Baltimore.

Senator DOMENICI. Rouse?

Senator HOLLINGS. No; but we took an old tobacco factory and got some little small businesses there, but it is a feel-good approach. I can tell you in the 40 years of locating the industry and the new endeavor does not want to be in downtown Columbia or downtown Greenville or downtown Charleston. They want to get out. I mean, the cost of the insurance; the security; walking the employees to the parking zones so they are not assaulted and ev-

everything else in these inner cities, I am telling you right now it sounds good up here in Washington, but——

Senator DOMENICI. Practically speaking.

Senator HOLLINGS. Yes—practically speaking it is going to be very, very tough, very tough, but let me go ahead with those questions.

Senator DOMENICI. I am finished.

Senator HOLLINGS. We had one thing, the debate with respect to NAFTA and right in the middle of the debate last year the Mexicans started advertising, "Yes; you can in Yucatan." You could save \$15,000 per employee. There is cheaper labor down there. They did not have all these requirements and what-have-you. You could save \$15,000. They kept running those adds to the embarrassment of Salinas, and he finally got the Government of Yucatan to knock off or bug out, and stop the advertisements.

Right in the middle toward the end of it, we come along with the same kind of ad from the Small Business Administration, and it says, "Opportunity in Mexico." Here is a booklet right here, published with AT&T, and you can read it in there.

Senator DOMENICI. Excuse me, Mr. Chairman. Could I just thank him personally?

Thank you. I look forward to working with you.

Mr. BOWLES. Thank you very much.

#### JOB LOSSES DUE TO NAFTA

Senator HOLLINGS. My question would be: What is the contribution? We've got the SBA to create jobs here in the United States. I know about all those export arguments, but if we use that to a fare-thee-well, then we get rid of all the jobs. You can get so much from exports, exports. Let's get on top of that and find out how much we are contributing to these kinds of things. This really cuts the ground from under us in trying to work with SBA and trying to really build jobs in America, and in contrast, we have got the SBA going in the other direction, sending jobs outside the United States.

I have some other questions, Mr. Administrator, but I feel just like my colleague, Senator Domenici, you have got the expertise, and any other suggestions you have got on how we can do a better audit and watch these loans and then how we can package disaster and these kinds of things, let us know because you have got a greater experience than any of us on this committee, and we want to help as much as we can.

Mr. BOWLES. Thank you, Senator.

#### PREPARED STATEMENT OF SENATOR KERREY

Senator HOLLINGS. Senator Kerrey was not able to attend the hearing today, but requested that his statement be included in the record.

[The statement follows:]

#### STATEMENT OF SENATOR ROBERT KERREY

Mr. Chairman, small businesses generate most of the new jobs in our country. This is certainly true in my state of Nebraska and, as a small businessman myself, I recognize the importance of the Small Business Administration's policies to en-

courage and sustain our Nation's small businesses, thereby promoting job growth and economic diversity.

Of particular importance are the direct loan programs in Section 7(a). The direct loan guarantee program is a dependable source of financing for Nebraska small businesses, and is a program which has always had my support. I am pleased to see that you've maintained funding so that entrepreneurs, struggling to succeed, are given adequate opportunity to do so.

I am also pleased that the SBA is attempting to streamline the loan application process for guaranty loans in the amount of \$100,000 or less through the institution of the "Low Documentation Loan Program." I believe this new pilot program will be immensely helpful to these aspiring businesses.

Mr. Chairman, I look forward to working closely with the Small Business Administration to provide support to our Nation's small businesses.

#### ADDITIONAL COMMITTEE QUESTIONS

Senator HOLLINGS. We will keep the record open for further questions from the other colleagues.

[The following questions were not asked at the hearing, but were submitted to the administration for response subsequent to the hearing:]

#### QUESTIONS SUBMITTED BY SENATOR ERNEST F. HOLLINGS

##### NEW FEE PROPOSALS

*Question.* Your budget includes several new user fee proposals totalling \$26.4 million. We are going to hear a lot of opposition to these proposals, so could you go through these fees and give us your best arguments? (For example, with the Small Business Development Center fee, my understanding is that Commerce Department Minority Business Development Centers already charge consulting fees as do SBA Micro-Loan Technical Assistance groups.)

*Answer.* A new user fee to loan borrowers is proposed by the SBA to help recover the administrative expenses of certain agency activities such as the subordination of liens, loan assumptions, reamortization of loans, and substitution of collateral. A user fee of approximately \$75 per loan per transaction would be assessed. This assessment is consistent with standard commercial lending practices, where borrowers are routinely charged amounts ranging from \$200 to \$300, and is expected to generate a total of \$7.2 million.

Other proposed user fees include: a fee for counseling to Small Business Development Centers (SBDC's); a fee for SBA publications; and a fee to defray a portion of the costs associated with the Agency's computer-based electronic bulletin board (SBA On-Line). Each of these provide a valuable service to our customers.

SBDC's provide management and technical assistance to small businesses through counseling and training workshops. We propose to establish a \$15 per hour fee for SBDC customers. The SBDC user fee will be based on the number of hours utilized for counseling purposes and is expected to generate \$17 million per year. This will encourage the full participation of the client as a result of his/her own investment of time and money.

The Agency plans to establish a nominal charge for publications distributed by SBA to help offset the costs of a planned increase in dissemination. These charges would range from about \$0.50 to \$1.50 per publication. We expect these increases to generate \$1.2 million in revenues.

The final fee involves charging users for certain optional features on the Agency's first computer-based electronic bulletin board. This service (SBA On-Line) provides immediate, around-the-clock access to information on SBA's services, publications and programs, and provides users access through electronic gateways to other bulletin boards that contain information important to small businesses. The current 1-800 number was provided to SBA at no cost for the first year only. Due to the overwhelming response to this service (approximately 800,000 calls received since last year), the 1-800 number in fiscal year 1995 will only be provided for initial access to SBA's general information. Users who wish to access other bulletin boards through the electronic gateways or who want to post and receive messages, will be assessed a user fee. This fee is expected to generate \$1 million in revenues to offset the expected \$1.5 million cost of providing this service.

## EMPOWERMENT ZONE COMMUNITIES VS. DEFENSE IMPACTS

**Question.** Your budget proposes to create new offices in "empowerment zones communities" and to set aside \$15.1 million to guaranty \$375 million in loans for businesses in these communities. We have never earmarked SBA loan programs for any one Region or community, but isn't that what you're asking us to do now?

**Answer.** The budget request does not envision a specific earmarking of funds, but rather a recognition of a particular level of loan activity in these areas. The EZ/EC initiative is designed to expand business opportunities and create jobs in designated economically distressed inner cities and rural communities. Under the one-stop shop concept, SBA plans to bring its lending and business development programs to small, minority and women-owned businesses into distressed areas and traditionally underserved markets. However, the resources and programs in the one-stop shops will be available to any small business. The shops are intended to serve as regional and national distribution centers for small businesses.

**Question.** I've noticed that on the contrary your budget does not contain any proposals to help defense impacted communities. Why is the administration giving this attention to "empowerment communities" but no attention to defense economic conversion?

**Answer.** The SBA has been actively involved in areas where the Department of Defense has announced that bases will be closed or downsized. Through our network of Regional and District offices, Veterans Affairs Officers, and our resource partners SCORE and the Small Business Development Centers, SBA has provided counseling and training to military personnel about to be separated. Workshops on how to start and operate a business and information on SBA's lending and business development programs are given at all military installations scheduled to close. In addition, SBA has worked closely with the Department of Labor in the Transition Assistance Program (TAP) and has developed a chapter on entrepreneurship which is included in the TAP manual. A comprehensive handbook entitled "A Veterans Guide to Entrepreneurship" was developed by our Office of Veterans Affairs in response to the downsizing of the military and is available at any of our district offices nationwide.

SBA has also developed a pilot program called "Transition 94" aimed at large prime contractor companies that are laying off thousands of workers over a given period. This program includes:

- An on-site general orientation for all displaced employees for the purpose of presenting available alternatives to future employment and business opportunities.
- On-site pre-business workshops and individual follow-up for all displaced employees who indicate an interest in starting their own business.
- On-site workshops and specialized skills training.

Many of SBA's District Directors participate in the meetings held by local planning commissions dealing with base closures in their area. All of SBA's programs are available to individuals being impacted by the military downsizing program.

**Question.** EDA and other agencies have been trying to work with Charleston in my home state to replace the 22,000 direct jobs that will be lost the base. Near as I can tell, SBA hasn't done anything to help with the defense conversion effort in Charleston. Why is that Mr. Bowles? Are you aware of anything your agency has done to help in the reuse of Charleston Navy Yard?

**Answer.** The SBA District Director in Columbia, SC, Elliott Cooper, has been attending meetings of the BEST Planning Commission on the reuse of the Navy Yard and providing information on all SBA programs. In addition, the Small Business Development Center at the University of South Carolina is providing information and assistance to interested individuals impacted by the Charleston Navy Yard closing. In fact, the SBDC has submitted a formal proposal to the Department of Defense to set up a subcenter right on the Navy Yard to provide transition assistance. Additionally, SBA together with our resource partners SCORE and the SBDC has conducted pre-business workshops and provided information on how to utilize SBA's programs.

## ELIMINATION OF DIRECT LOANS

**Question.** Your budget proposes to eliminate all SBA Direct Loan programs and meet their needs through loan guarantees. This has been advocated by previous administrations, but they failed. So, please give us your best arguments to eliminate these specialized programs.

**Answer.** As you know, the subsidy rate for most of the direct programs is 10 to 15 times higher than that for the 7(a) guaranty program. Also, these direct programs are only able to meet the needs of about 700 small businesses each year. When budget appropriations are as limited as they are today, we need to seek ways to leverage these funds as much as possible. Therefore, we propose to fully utilize

the 7(a) guarantee program and requested a \$7.5 billion level with anticipated carryover of \$1.5 billion for a total availability of \$9 billion in fiscal year 1995 to meet these needs. If the total direct loan subsidy amount of all programs, excluding microloans, is \$13 million in fiscal year 1994, this would provide \$476 million in loans under the 7(a) guaranty program in fiscal year 1995.

Through the introduction of our new lending initiatives in fiscal year 1994-1995, including LOWDOC and the Women's Pilot Loan Pre-Qualification Program, we are confident that we will be able to provide assistance to those borrowers that were previously served under the direct loan programs.

*Question.* I'm not sure that I understand your proposal on the micro-loan program. The subsidy rate doesn't change by going from a direct loan to a guaranteed loan program. Could you explain that? What is the incentive to change a guarantee if it doesn't save funds?

*Answer.* Lenders will have the authority to guaranty loans to a micro loan intermediary. The lender will disburse its funds and receive payments from the intermediary. If the intermediary defaults on the loan, SBA will purchase it and liquidate any available collateral. The present estimate for the subsidy rate as a guarantee program is 12.16 percent. We believe that changing from direct program to a guarantee program will eventually permit us to reduce the subsidy rate. It will also transfer much of the payment processing activity to the private sector, thus freeing SBA's micro loan resources to focus on policy and program issues. Of primary importance, too, is the fact that this change will bring the traditional lenders closer to the small business borrowers so that a business graduates from the Microloan program to a traditional lender.

#### SECTION 7(A) GUARANTEES

*Question.* Why is the administration increasing the subsidy rate for section 7(a) loans?

*Answer.* The fiscal year 1994 subsidy rate of 2.15 percent reflects a difference of 0.58 percent less than the fiscal year 1995 rate of 2.73 percent. Of this 0.58 percent, 0.49 percent was due to a re-estimation of our secondary market fee income, 0.08 percent was due to the impact of including empowerment zones in the 7(a) program, and 0.01 percent was an adjustment due to an update in OMB's economic assumption.

*Question.* Since interest rates are going up shouldn't the subsidy rate for guaranteed section 7(a) loans be coming down? When would we see this adjustment by the Administration?

*Answer.* The assumption of an inverse relationship between interest rates and subsidy rates is generally true for guarantee loan programs. However, the 7(a) program includes an annual fee which consists of a charge of 0.4 percent on the outstanding principal amount of all loan guarantees sold on the secondary market. The effect of an increase in interest rates (and, therefore, discount rates) is to lessen the present value of this cash flow stream, thereby offsetting any decrease in the subsidy rate.

*Question.* The Administration is requesting a \$57 million increase in appropriations for the section 7(a) program. Isn't most of this increase, \$44 million by my calculation, directly attributable to this subsidy rate increase?

*Answer.* If the subsidy rate remained 2.15 percent, we would need budget authority of \$155 million to support our requested program level of \$8.995 billion, which represents a \$52 million reduction from our request. However, even with the subsidy rate increase, we are requesting \$125 million less than we received in fiscal year 1993 and will manage a program that is \$2.5 billion larger.

#### DISASTER LOAN REFORMS

*Question.* But your budget proposes to increase the finance charge for disaster loan borrowers from 4 percent to "Treasury plus 1 percent," and you've asked for appropriations language to do it. Why the inconsistency? What happens to the disaster program if we don't make your legislative change? Why have you requested that this change be made by the Appropriations Committee instead of the Small Business Committee?

*Answer.* This proposal was made in direct response to the Federal deficit considerations. The effect of this proposal was to reduce the programs's subsidy rate from 24.41 percent to 12.07 percent. This resulted in a reduced appropriation requirement of \$48.4 million to support the 10 year average program level. Due to the budgetary nature of this proposal, it was most appropriately included as an appropriation language request. If this proposal is not enacted, it would not change the program or eligibility for such loans but would result in the need for increased ap-

proportions for the same program level than would be the case if the change were made.

#### COORDINATION WITH MBDA

*Question.* In your opening statement you discuss assistance to minority businesses. And your empowerment zone proposal presumably would have SBA setting up new offices in primarily minority areas. How are your programs being coordinated with Ron Brown and his Minority Business Development Agency (MBDA)?

*Answer.* As part of the empowerment zone initiative, SBA and MBDA have participated in a number of technical seminars given by the Departments of HUD and Agriculture to inform potential applicants about our respective agency programs. MBDA serves primarily minority-owned businesses while SBA serves small businesses, in general, including small minority-owned firms. Secretary Brown, SBA Administrator Bowles, and Acting MBDA Director, Gil Colon have met and discussed how the agencies can best deliver available programs to the minority community and to small businesses.

*Question.* Since Secretary Brown already is funding minority business development centers and what he calls "mega-centers" in these urban "empowerment zone" areas, why would SBA be setting up a separate one-stop shop to provide technical assistance? Why not transfer money to MBDA instead of setting up competing federal programs?

*Answer.* The Commerce Department's "mega-centers" are run by private sector consultants that receive a fee for the services they provide to clients. The fee structure may vary slightly based on the local economy, availability of alternative services, and the emphasis of the individual centers (i.e. loan packaging, business plan development, etc.). The average center has a fee charge of \$50 per hour which is substantially subsidized by MBDA based on the annual revenues of the minority business. The "one-stop capital shops" will bring SBA's programs and resources to economically distressed areas that have been traditionally underserved. We anticipate that local and state resources will also be co-located in the shops to provide additional assistance and information.

#### OPPORTUNITY IN MEXICO

*Question.* I received this "Opportunity in Mexico" book which was published by SBA and AT&T. How much did SBA spend putting together and publishing this book?

This book seems to advocate that U.S. small businesses set up shop and manufacture in Mexico. It touts the productivity and low cost of Mexican workers. What is SBA doing since—when is it SBA's mission to promote maquiladoras?

*Answer.* I want to clarify SBA's role in producing this book on Mexico and to relate the small business community's tremendously positive response to the guide.

Prior to the Clinton Administration, the Office of International Trade (OIT) received an unsolicited proposal from Free Trade Consultants (FTC) of Buffalo to fund the development of a trade guide for small businesses on doing business in Mexico. OIT recognized that, even prior to the passage of NAFTA, Mexico was a high-growth market for U.S. small businesses. The office accepted the unsolicited proposal, contingent upon identifying a private co-sponsor to fund the printing costs. The guide is a three-way partnership among SBA, SCORE and AT&T. OIT, through SCORE, paid FTC \$23,875 in appropriated funds for the development of the guide. AT&T contributed \$65,000 to print over 60,000 copies.

"Opportunity in Mexico" is the only practical guide designed for small business exporters that both explains the export process and lists all the U.S. and Mexican resources available to U.S. firms. OIT and SCORE worked closely with FTC on the book's development to ensure that the information presented was appropriate for the small business audience and that the message was consistent with the U.S. government's position on trade with Mexico at that time. The USTR reviewed the NAFTA section of the guide, and the Commerce Department reviewed the "Manufacturing in Mexico" section, which offers a balanced view to maquiladoras and their impact on U.S. employment.

Since the book was printed in October of 1992, OIT has distributed over 50,000 copies. We have seen a surge in demand for the book since the passage of NAFTA. Last month OIT sent a copy of the Mexico guide and our new trade guide, "Breaking Into the Trade Game," with a cover letter under my signature to every member of Congress. The response to the mailing has been very positive, and, to date, we have received approximately 15 requests from Congressional offices for large quantities of the books to distribute to their constituents.

## EXPORT PROGRAMS

**Question.** When did SBA get into the trade mission business? How many overseas trade missions has SBA conducted or led during the past two years? How much is budgeted for trade missions in fiscal year 1994 and fiscal year 1995?

What is the cost of this trade mission to Argentina?

What is the United Nations Industrial Development Organization's role? How much support is that organization providing?

Has this mission been coordinated with the U.S. Department of Commerce?

**Answer.** SBA's Office of International Trade (OIT) has been doing trade missions since the mid-1980's when it helped launch the pilot program called "Matchmaker Trade Delegations," which is now a Department of Commerce program. The pilot worked so well that SBA continued to do an SBA-led trade mission every two to three years, and co-sponsored a substantial number of trade missions with other government agencies, selecting countries and industries with strong export potential for small, new-to-export or new-to-market businesses.

Participating in government-sponsored overseas trade missions is one of the most effective ways for a small business to make its first penetration of a foreign market. Trade missions such as this match U.S. companies with potential representatives and distributors overseas. The Omnibus Trade and Competitiveness Act of 1988 gives the Office of International Trade its legal underpinning regarding trade missions for small business.

The primary focus for SBA in developing and co-sponsoring trade missions is to assist new exporters. SBA and its resource partners have developed a program of assisting mission participants with personal counseling, during and post-mission to provide the type of intensive assistance small businesses require during their first few export transactions.

Typically, participant companies are contacted by the SBA Regional/District International Trade Officers and offered assistance and SBA information, including SBA loan guarantee assistance at least one month prior to the event. A pre-mission briefing is given to each firm using the newly-developed OIT training module "How To Participate Profitably In A Trade Mission." This training module utilizes written exercises and materials to help small firms properly prepare themselves to get the most benefit from a trade mission. In addition, the mission director coordinates all activities related to the trade mission itself with each company involved. Follow-up is done by either the SBA or its resource partners to offer financial or other assistance.

The SBA continues to assist new-to-export small firms to access new markets through well-planned, low cost efforts. Trade missions are SBA-sponsored, co-sponsored with U.S. Department of Commerce (DOC), the Overseas Private Investment Corporation (OPIC) and co-sponsored with other agencies, such as the United Nations Industrial Development Organization (UNIDO). There is no budget for trade missions, per se. OIT's outreach budget covers the low costs of printing the brochure and directory, and travel for the mission director. We keep the costs to a minimum. Much cost-recovery has been achieved for the missions (SBA charges businesses a participation fee which covers the Department of Commerce's U.S. Foreign Commercial Service (US&FCS) costs at each overseas stop).

The important new realities of the NAFTA and the necessity to inform small businesses about the opportunities of trade with the entire Western Hemisphere were both strong reasons to conduct a "matchmaker" style trade mission to Mexico in 1992. This mission is a good example of a successful mission promoted, recruited and led by an SBA international trade officer fluent in Spanish, but coordinated fully with the US&FCS. In October 1993, a second SBA-led trade mission to Mexico was done, with similar success. At the same time, an SBA-led trade mission was done in Poland, also through the US&FCS. A total of 35 companies have been assisted over the past two years in this manner.

An upcoming trade mission to be held in July 1994 to Argentina is a co-sponsored effort with UNIDO, with SBA doing recruitment of small businesses and UNIDO doing the logistical support in Buenos Aires, Argentina, where they have an office. This was arranged through an MOU signed between SBA and UNIDO in July of 1993.

Historically, the SBA regions have also done trade missions/delegations. REPRESENTACIONES USA 1992, in Guadalajara, Jalisco, Mexico, was held to help firms develop new markets in Mexico. The event was a Central Office funded Special Field Initiative for Regions VII and VIII, and nine companies, assisted by the SBA, participated from those two regions.

The SBA has worked hand in hand with the U.S. Department of Commerce after a check with other organizations about the suitability of setting up the business

meetings. No other organization has the adequate means and reputation that the Foreign Commercial Service (FCS) does in-country to do such a task. This has been accomplished through DOC's trade mission certification program (IOGA).

#### QUESTIONS SUBMITTED BY SENATOR DANIEL K. INOUE

**Question.** Administrator Bowles, you have described most thoroughly your proposals to revamp the SBA to make it more responsive to the needs of the small business community. I applaud your herculean efforts in your first year as Administrator towards this end. Would you detail what changes you have made in the 7(a) program that led to the dramatic reduction in the subsidy rate from 5.21 percent through most of fiscal year 1993 to 2.15 percent in fiscal year 1994.

**Answer.** The policy changes which are instituted at in September, 1993 actually reduced the fiscal year 1993 subsidy rate from 5.47 percent to 2.15 percent; 5.21 percent was the weighted average of these two figures. The five specific changes were:

One, Reduce Maximum Guarantee for PLP Loans to 70 Percent.

Two, Reduce Maximum Guarantee for Real Estate Loans greater than \$155,000 to 75 percent.

Three, Impose a 0.4 Percent Annual Fee on the Outstanding Balance of All Loans Sold on the Secondary Market.

Four, Impose a 50 Percent Fee on the Portion of Secondary Market Sales Premiums greater than 110.

Five, Reduce maximum accrued interest purchased to 120 days.

	Fiscal year 1993 subsidy rate	Fiscal year 1994 subsidy rate
Policy No. 1 .....	5.47	4.92
Policy No. 2 .....	-.36	-.36
Policy No. 3 .....	-.61	-.61
Policy No. 4 .....	-.80	-.80
Policy No. 5 .....	-.73	-.73
Policy No. 5 .....	-.22	-.22
Adjusted subsidy rate .....	2.75	2.20
Change in economic assumptions (October 1993) .....		-.05
Total .....		2.15

**Question.** Administrator Bowles, how would you compare the SBA disaster loan program's response to the recent calamities in the Midwest and in California with the responses to Hurricanes Andrew and Iniki in 1992?

**Answer.** In each of these disasters, SBA was on site immediately after the disaster and remained on site as long as it took to do the job. We are still very much involved with the Midwest floods and the Northridge earthquake. In each of these disasters, we have had to rely on the prompt action of the Congress for sufficient funds to allow us to do our statutory duty.

In both the Midwest floods and the Northridge earthquake, we have made substantial improvements in our delivery of disaster assistance. We have renewed the emphasis on customer service and have substantially revised and simplified our loan application forms. Information required by the disaster business loan application was reduced by 50 percent and submissions with the disaster home loan application were also substantially reduced.

**Question.** Administrator Bowles, you stated that in the past, the Minority Business Development program "has not been effective in meeting the needs of our minority and disadvantaged small business customers." Would you elaborate upon why this has been the case?

**Answer.** We are concerned that the Minority Business Development program has concentrated solely on helping a small number of 8(a) certified companies obtain government contracts. To correct this deficiency, we are now finalizing a complete legislative proposal which will make all of SBA's programs, including access to capital, available to a much larger number of minority-owned business. This proposal will be shared with the Congressional offices shortly.

**Question.** Please detail your proposed changes to the Minority Business Development program, and what specific problems these changes will address.

**Answer.** We are in the process of finalizing the proposed changes based on the comments and recommendations of current and past program participants, minority trade associations and internal staff.

While we have not worked out the details for all of the proposed changes, we have focused on the following major areas: streamlining and revising the certification and eligibility process to eliminate the difficulties faced in program entry; improving the management and technical assistance provided to program participants by making effective use of our resource partners such as the Small Business Development Centers and the Business Development Centers managed by the Minority Business Development Agency in addition to the funds available under our 7(j) management and technical assistance program which we are proposing to be used exclusively by program participants; providing program participants greater access to capital by utilizing our existing loan programs; creating greater contract opportunities by streamlining the 8(a) contracting process and establishing a governmentwide small disadvantaged set-aside program for civilian agencies similar to the DOD set-aside program; development of a mentor-protégé program that is mutually beneficial to both current participants and program graduates and eliminating program requirements that are burdensome that do not contribute to the development of the firm and is not needed by the agency to ensure program integrity.

#### QUESTIONS SUBMITTED BY SENATOR J. ROBERT KERREY

**Question.** One of the primary initiatives proposed by the Administration is the "One Stop Capital Shop"—a job creation program targeted at economically distressed rural communities and inner cities. We are fortunate in Nebraska in that our economy is healthy; our unemployment rate is relatively low at 3 percent. Can minority and women-owned businesses qualify under this program if they are not from economically distressed areas?

**Answer.** Although the one-stop capital shops will be located in designated urban and rural economically distressed areas, small businesses, including those owned by minorities and women, outside the designated areas can utilize the services of the one-stop shops. In addition, SBA's District offices can provide businesses outside the designated areas with assistance and information on all SBA programs.

**Question.** What has SBA done in the last two years to secure contracts for women and minority owned businesses in Nebraska?

**Answer.** During the first year, the Nebraska procurement officer, or Procurement Center Representative (PCR), initiated contacts with the Federal Procuring agencies and state economic development agencies to acquaint himself with the resources available to assist Nebraska small businesses in consonance with the resources available from SBA. The PCR established a computerized data base listing 2,839 Nebraska firms by area of expertise, ownership, location, etc. Federal contracts awarded to Small Disadvantaged Business (SDB) firms in Nebraska grew from \$15.1 million in fiscal year 1991 to \$19 million, in fiscal year 1992. This reflects an increase of 26 percent. Women Owned Businesses (WOB) firms in Nebraska were awarded \$11.4 million in fiscal year 1991 and \$13.3 million in fiscal year 1992, an increase of 17 percent.

During fiscal year 1993, the Nebraska PCR initiated a variety of outreach efforts to increase contract awards to Nebraska small businesses, including women and minority-owned firms. Specifically, the PCR provided 72 firms with procurement opportunities in their field of expertise; attended and addressed nine procurement workshops throughout the state; responded to 1,271 telephone requests for information; held 61 in-dept counseling sessions; and conducted an additional 67 counseling sessions in his office.

**Question.** What is the status of the regional SBA Director in Kansas City?

**Answer.** The new Regional Administrator for Region VII, headquartered in Kansas City, is Bruce Kent. He is scheduled to begin in this position on March 28, 1994.

**Question.** Two years ago, Nebraska received a procurement officer (through Sen. Kerrey's efforts). There is concern among small businesses in Nebraska that very little has resulted from this, in comparison to other states that have their own procurement officer. Could you explain this?

**Answer.** Along with the outreach efforts outlined in the answer above, the PCR coordinates and meets with the Chief of the Nebraska Department of Economic Development monthly to discuss small business issues and ways to increase procurement opportunities for Nebraska firms. The PCR also works with the Nebraska Technical Assistance Center and the Nebraska Food Processing Center. The statistics from the Federal Procurement Data System (FPDS) covering awards to Ne-

braska owned businesses reflect significant increases from fiscal year 1991 to 1992 as shown below:

	Fiscal year 1991	Fiscal year 1992	Increase (percent)
Total awards .....	\$434,216,000	\$534,043,000	23.0
Small business awards .....	142,772,000	193,869,000	35.8
Small business set aside awards .....	56,349,000	72,383,000	28.4

Note.—The FPDS statistics for fiscal year 1993 are not yet available.

The PCR's efforts do not always provide immediate, measurable results. As an example, counseling a firm on how to obtain a Federal contract or providing a procurement opportunity may not result in an immediate contract award. However, a review of the PCR's outreach efforts and the over-all increases in Federal awards to Nebraska firms clearly indicates that the state is receiving an ever increasing share of Federal procurement awards.

**Question.** What is SBA doing for small businesses in Nebraska?

**Answer.** (a) The Omaha District office with a staff of 26 work with Nebraska's 44,405 small businesses, including some 2,000 minority business men and women.

(b) The SBA office provides loans, loan guarantees, counseling and training, available to all of Nebraska's 1.6 million people.

(c) The SBA, largely through its SBA-guaranteed loans, creates thousands of jobs, a major factor in keeping Nebraska's unemployment rate the lowest in the nation, as low as the near-miraculous rate of 2.1 percent in April 1990, to the current 2.7, still the nation's lowest—and expected to be the nation's lowest through fiscal year 1995 at no more than 3 percent. The state's 1993 employment was estimated at 845,292. Our portfolio loan volume as of December 31, 1993, was 1,620 loans totaling \$136,196,000.

Indeed, the Omaha SBA office made 298 loans in fiscal year 1993 totaling \$55,359,546. The real question is: How many of those loans would have been made without an SBA guarantee? Further, what is the impact of \$55 million on the Nebraska economy? Answer: Nebraska's per capita income annual growth rate is 6.5 percent, the second fastest in the nation, bringing Nebraska within \$600 of the national level.

An even better question: Where else would Nebraska obtain \$136,196,000 to inject into the small business economy, if SBA guarantees were not available?

The Omaha District office plays a major part in the state's economy and in the support of individual small businesses through significant educational, banking and other private-sector support made available via the Nebraska Business Development Center and its state network of subcenters, our Services Corps of Retired Executives through their chapters throughout the state, and the Small Business Institute program operating through our colleges and universities.

The District's Business Development Division, being merged into the new Economic Development Division, serves over 6,000 of Nebraska's 44,000 small businesses.

District SCORE Chapter 40 of Omaha was rated the nation's best in 1991. The District SBI program won the No.1 national case award in 1987. It placed third in 1988, and has been the Region VII winner year-after-year.

The Omaha District office has been a major player in increasing U.S. exports. For example, in 1992 Nebraska increased its exports 22.1 percent over 1991 (\$28.3 billion to \$30.6 billion), even though Nebraska exports represent only 0.3 percent of the U.S. total.

In a state with 93 counties, where only 9 can expect major population growth in the next decade, in a state with 520 communities of less than 10,000 population, in a state in which immigration is from rural counties to urban counties, in a state where most of its small towns depend largely on Social Security, public assistance, payments, and farm subsidies, SBA is the only Federal agency with the potential and ability to have a significant impact on small business economic development through the creation and expansion of small businesses.

Candidly, one can argue forcefully that Federal dollars when spent in Nebraska have more impact than the same number of dollars spent in California or Virginia.

In summation, the Omaha District office provides for the entire state, not just for Lincoln and Omaha, several quality products and services, including: (1) Strong leadership in intermediate-term credit for small businesses; (2) other capital for business development; (3) training and advice for business owners; (4) information

about government programs; (5) infrastructure technology to support business and economic development; and (6) strategies for growth and marketing.

*Question.* How do you envision the reorganization of SBA impacting Nebraska?

*Answer.* The general thrust of SBA's reorganization plan is to put more assets where our customers are—in the field. Over time, the reorganization will have a significantly positive impact in that we will transfer people from the Central and Regional offices to our District offices. Eventually, we expect to have about 16 percent fewer people in Washington and 80 percent fewer people in the Regional offices, while increasing our District offices by 17 percent.

*Question.* On May 21, 1994 we are co-sponsoring an education technology conference—"Challenge Nebraska"—in Lincoln, Nebraska. We would like to have the participation of SBA. Can they supply us with a list of technology-oriented small businesses in Nebraska?

*Answer.* Attached is a list of technology-oriented small businesses in Nebraska.

#### TECHNOLOGY-ORIENTED SMALL BUSINESSES IN NEBRASKA

Andrews Electric Co. Inc. Alfred Andrews, President Post Office Box 273 Geneva, NE 68361 402/759-4425	EM—Electrometrics Jim Becker, Eng Mgr PO Box 83088 Lincoln, NE 68521 402/467-3541
Garner Industries, Inc. Edward Garner, President 4200 North 48th Street Lincoln, NE 68504 402/464-5911	Radio Engineering Industries Robert Hays, President 6534 "L" Street Omaha, NE 68117 402/339-2200
A T V Research, Inc. M. Shadbolt, President Post Office Box 620 Dakota City, NE 68731 402/987-3771	GS&E Enterprises Gene Avery, Pres/Owner 807 "C" Street Aurora, NE 68818 402/694-4204
Erko Technologies Eric and Margaret Martin, Owners 7610 Burlington Omaha, NE 68127 402/331-2632	Great Plains Meter, Inc Milvern Noffke, President 115 South 16th Street Aurora, NE 68818 402/694-4114
Telex Communications Andrew Kuehl, Plant Manager 8601 North East Highway 6 Lincoln, NE 68505 402/467-5321	Transcript International, Inc John and Vonnice Kuijvenhoven, Mgrs 1620 North 20th Lincoln, NE 68503 402/483-2961
Lab Research Products, Inc Larry Prather, Manager Post Office Box 85505 Lincoln, NE 68501 402/475-9020	National Manufacturing Roland Temme, President 544 "J" Street Lincoln, NE 68508 402/475-3400
Azonic Products, Inc Lyle B. Sallach, Manager 502 West Main Street Albion, NE 68620 402/395-5081	GRH Electronics Kenneth Hoberman, Pres 4520 South 36th Street Omaha, NE 68107 402/734-4900
ISCO, Inc—Environmental Div Doug Grand, Vice President Post Office Box 82531 Lincoln, NE 68501 402/474-2233	Marshalltown Instruments Bill Rittenhouse, Plant Mgr East Highway 26 Oshkosh, NE 69154 308/772-3295

Farrall Instruments, Inc  
William R. Farrall, Pres  
PO Box 1037  
Grand Island, NE 68802  
308/384-1530

AT & T Network Systems  
Jay Carter, Pres  
PO Box 37000  
Omaha, NE 68137  
402/691-3000

Centurion International, Inc  
Gary Kuck, President  
Post Office Box 82846  
Lincoln, NE 68501  
402/467-4491

Reach Electronics, Inc  
George Silence, CEO  
Post Office Box 308  
Lexington, NE 68850  
308/324-6661

Valley Products Corp  
J T Daugherty, Pres  
Post Office Box 668  
Valley, NE 68064-0668  
402/359-5500

Precision Machine Co. Inc  
John A. Buse, President  
2933 North 36th Street  
Lincoln, NE 68504  
402/467-5528

Caldwell Manufacturing Co  
Ed Benson, Gen Sales Mgr  
Post Office Box 848  
Kearney, NE 68848  
308/237-3186

Key Systems  
13524 Z Street  
Omaha, NE 68137  
402/895-0676

Nidata Information  
11301 Davenport Street  
Omaha, NE 68154  
402/330-6548

Perfect Byte Inc.  
7121 Cass Street  
Omaha, NE 68132  
402/554-1122

Software Solutions  
268 North 115th Street  
Omaha, NE 68154  
402/330-6125

TLS Company  
5716 S 85th Plaza  
Omaha, NE 68134  
402/592-4360

Astro Graphics of Omaha  
8810 Blondo Street  
Omaha, NE 68134  
402/397-8910

Display Technologies  
8709 F Street  
Omaha, NE 68127  
402/593-6123

Technical Services Inc.  
8703 F Street  
Omaha, NE 68127  
402/339-1170

Product Drafting/Design  
608 Mikelluke Circle  
Papillion, NE 68048  
402/339-4555

A & L Computer Services  
410 Snyder Pl  
Alliance, NE 69301  
308/762-7243

Computer Engineering Inc.  
1309 Harlan Drive  
Bellevue, NE 68005  
402/292-2013

Reliable Software  
RFD 1  
Fort Calhoun, NE 68023  
402/468-5700

WORK  
811 West 4th Street  
Grand Island, NE 68001  
308/384-7478

Anatec Inc.  
1624 Douglas Street  
Omaha, NE 68102  
402/342-8337

Certified Professionals  
401 North 117th Street  
Omaha, NE 68154  
402/333-7926

Data Chip Corporation  
5624 Pierce Street  
Omaha, NE 68106  
402/553-4333

Digitronix Inc.  
9005 F Street  
Omaha, NE 68127  
402/339-5340

Faxtel Ltd  
Box 4578  
Omaha, NE, 68104  
402/451-7967

**IS Resource Group Inc.**  
11212 Davenport Street  
Omaha, NE 68154  
402/330-8810

**CIG Consulting**  
205 Fraiser  
Beemer, NE 68716  
402/528-3421

**Gould Inc.**  
701 Bellevue Blvd. South  
Bellevue, NE 68005  
402/292-7582

**Business Mgmt Services**  
1203 W 2nd Street  
Grand Island, NE 68801  
308/381-0910

**Specialized Software Services**  
RR 3  
Hartington, NE 68739  
402/254-6863

**Automation Inc.**  
10703 J Street  
Omaha, NE 68127  
402/339-9500

**Consolidated Business**  
616 South 75th Street  
Omaha, NE 68114  
402/393-0313

**Data One Systems**  
12505 Yates Street  
Omaha, NE 68164  
402/496-9366

**DMO Computer Systems**  
1325 South 72nd Street  
Omaha, NE 68124  
402/393-0440

**Hi-Tech Equipment Company**  
10311 W Street  
Omaha, NE 68127  
402/592-0202

**J D Business Solutions**  
11329 P Street  
Omaha, NE 68137  
402/339-0319

**Micropower Inc.**  
5962 Wenninghoff Road  
Omaha, NE 68134  
402/333-8801

**Omaha Systemworks Inc.**  
13444 L Street  
Omaha, NE 68137  
402/334-7569

**Rita Peters**  
2730 South 148th Avenue Cir  
Omaha, NE 68144  
402/330-2897

**System Design Inc.**  
2811 North 81st Street  
Omaha, NE 68134  
402/392-2959

**Key Software Systems**  
131 North Washington Street  
Papillion, NE 68046  
402/331-7604

**Cadd Concepts**  
2905 South 108th Street  
Omaha, NE 68144  
402/397-0800

**Microvision Inc.**  
11130 O Street  
Omaha, NE 68137  
402/592-4350

**Valcom Business Center**  
1600 Famam Building  
Omaha, NE 68102  
402/345-6020

**Computer Graphics**  
109 West 11th Street  
South Sioux City, NE 68776  
402/494-3212

**Multi-Options Systems Inc.**  
7811 Wakeley Plaza  
Omaha, NE 68114  
402/391-3510

**Paradigm Solutions Corp**  
440 Regency Pkwy  
Omaha, NE 68114  
402/392-2720

**Software Information Svc**  
8712 South 143rd  
Omaha, NE 68137  
402/895-1573

**Technical Support Street**  
3015 North 90th Street  
Omaha, NE 68134  
402/571-9824

**Futureware Distributing**  
4515 South 119th Circle  
Omaha, NE 68154  
402/333-4650

**Chapman & Associates**  
1912 California Street  
Omaha, NE 68102  
402/348-0440

Midwest Photo Co  
4900 G Street  
Omaha, NE 68117  
402/734-7200

White's Color Center Inc.  
804 South 75th Street  
Omaha, NE 68114  
402/391-7297

Business Computer Consult.  
1801 Franklin Street  
Bellevue, NE 68005  
402/292-3915

Lloyd's of Bellevue  
1004 Durand Drive  
Bellevue, NE 68005  
402/291-4028

J C Doyle Ltd  
2312 South Locust  
Grand Island, NE 68001  
308/384-5380

Al-Xpersoft  
2340 Bel Court  
Omaha, NE 68144  
402/330-0407

CE Systems Inc.  
2102 North 135th Street  
Omaha, NE 68164  
402/493-0446

Cyber Systems  
3339 North 109th Plaza  
Omaha, NE 68164  
402/496-0555

Data Technologies Inc.  
11414 West Center Road  
Omaha, NE 68164  
402/334-9620

Dunham Software Inc.  
14216 Drexel Circle  
Omaha, NE 68137  
402/895-8650

Information Management  
10824 Old Mill Road  
Omaha, NE 68154  
402/334-1685

K S Software  
6818 Grover Street  
Omaha, NE 68106  
402/392-0640

*Question.* As we reform health care, what is SBA doing to help small businesses with health care concerns?

*Answer.* SBA's role is to educate and inform small businesses about the issues in health care reform and the proposed solutions. The Agency worked closely with Health Care Reform Task Force, chaired by the First Lady, in order to express the small business viewpoint as the Administration's plan was crafted.

Small businesses have a huge stake in health care reform. They pay more for health insurance than their large counterparts and their costs are increasing at a much faster rate. Small business and their employees are subject to occupational redlining and exclusions for pre-existing conditions. They have very little negotiating power with insurance companies, and the paperwork burdens are enormous. Self-employed individuals have only a 25 percent deduction for health care costs, while other businesses have 100 percent. I have spoken with literally hundreds of small business owners over the past nine months, and I am committed to making these concerns known to the Administration and Congress as the health care reform debate proceeds.

*Question.* I see you're planning to revise the 8(a) program. What are your proposals and when can we expect to see legislation?

*Answer.* We are in the process of finalizing the proposed changes based on the comments and recommendations of current and past program participants, minority trade associations and internal staff.

While we have not worked out the details for all of the proposed changes, we have focused on the following major areas: streamlining and revising the certification and eligibility process to eliminate the difficulties faced in program entry; improving the management and technical assistance provided to program participants by making effective use of our resource partners such as the Small Business Development Centers and the Business Development Centers managed by the Minority Business Development Agency in addition to the funds available under our 7(j) management and technical assistance program which we are proposing to be used exclusively by program participants; providing program participants greater access to capital by utilizing our existing loan programs; creating greater contract opportunities by streamlining the 8(a) contracting process and establishing a government-wide small disadvantaged set-aside program for civilian agencies similar to the DOD set-aside program; development of a mentor-protégé program that is mutually beneficial to both current participants and program graduates and eliminating program requirements that are burdensome, that do not contribute to the development of the firm and is not needed by the agency to ensure program integrity.

burdensome, that do not contribute to the development of the firm and is not needed by the agency to ensure program integrity.

We are hoping to finalize the proposed changes in the coming weeks and to develop a legislative package in the spring of 1994.

#### QUESTIONS SUBMITTED BY SENATOR ROBERT C. BYRD

##### SMALL BUSINESS ADMINISTRATION'S DISTRICT OFFICE IN CLARKSBURG, AND THE BRANCH OFFICE IN CHARLESTON, WEST VIRGINIA

*Question.* Administrator Bowles, on November 24, 1993, I wrote to you asking for a status report on maintaining current operating and staffing levels at the Charleston, West Virginia Branch Office, and the Clarksburg, West Virginia District Office. Your response on December 17, 1993, indicated that Clarksburg District Office has a current on-board employment level of 25 and the Charleston Branch Office has a current on-board level of four employees. You estimated that these levels will remain the same for fiscal year 1994 and fiscal year 1995.

Administrator Bowles, may I have your assurance that these offices will remain open at the current level in fiscal year 1995? Please provide for the record the staffing and funding levels of these offices for the fiscal years 1995, 1996, and that projected for 1997.

*Answer.* The actual obligations and staffing for fiscal year 1993 are listed below:

	Obligations as of Sept. 30, 1993	Staff on-board
Charleston Branch .....	\$221,483	4
Clarksburg District .....	1,228,986	25

The actual obligation and staffing for fiscal year 1994 through February 28, 1994 are listed below:

	Obligations as of Feb. 28, 1994	Staff on-board
Charleston Branch .....	\$88,661	3
Clarksburg District .....	551,090	25

Please note that the current staff on-board levels are lower due to the realignment of positions in the field. These levels will return to our estimated fiscal year 1994 levels once the realignment initiative is completed.

It is difficult to project the fiscal year 1995, 1996, 1997 staffing levels until which time we have received our appropriations for these years. The fiscal year 1995 proposal includes reductions in SBA staffing levels to meet Agency budget and FTE ceilings. Therefore, the West Virginia offices, as well as many other SBA offices, may be affected in both staffing and funding levels in future years.

##### SMALL BUSINESS DEVELOPMENT FUND FOR GRANT COUNTY, WV

*Question.* The Grant County project has been preserved and is ready to be processed by the SBA. Would you please provide for the record a timetable, including significant milestone events leading to the execution of this project?

*Answer.* On January 6, 1994, we transmitted the standard grant application package to Ms. Phyllis Cole, Project Coordinator in Petersburg, West Virginia. We included a set of instructions and identified an SBA staffer as the primary contact point for the grant. As part of our grant work, we will maintain contact with Ms. Cole and expect to have her application submitted to us by the end of April. In general, we are able to award grants approximately four weeks after receipt of a completed application.

## QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

## USER FEES

*Question.* You are requesting a program level of \$67 million for the Small Business Development Centers; however, \$17 million would be offset by user fees. Isn't your request in new budget authority actually only \$50 million?

*Answer.* The request for the SBDC Program is \$67 million. The anticipated \$17 million to be generated by the fees will be used to offset SBA's overall administrative budget requirement.

*Question.* What will be the fee charged for SBDC services? Will these fees be collected and retained by the individual centers, or returned to SBA? If returned to the agency, who will pay the administrative costs of collecting and administering the user fee program, SBA or the Small Business Development Centers?

*Answer.* The proposed fee for counseling would be \$15 per hour. Our initial plan is that the fees would be collected by individual centers and subsequently returned to SBA. We understand that there is a structure in place in many SBDC's for collecting fees now. The same structure would be used to collect those proposed fees. Any additional administrative costs would need to be paid from the fees collected for counseling by SBDC's.

*Question.* The user fee request is included in the bill language submitted to the Appropriations Committee. If we do not enact this legislative authority, what impact will this have on your budget request? Wouldn't we be required to appropriate an additional \$27 million to provide your full program request?

*Answer.* If this legislative authority is not enacted, the Agency would require an additional \$26.4 million appropriation to maintain our requested programs.

## BUYOUT OF SECTION 503 PREPAYMENT PENALTIES

*Question.* Were these companies aware of the prepayment penalties at the time they received their subsidized government loans?

*Answer.* There is some cause to question whether borrowers were fully aware of the prepayment penalties at the time they received their loans under the 503 program because of the technical nature of the language in the "truth in lending" statement that the government gave to 503 borrowers.

That statement read:

The repurchase price shall be an amount which would produce a yield to the Holder for the period from the date of repurchase to the maturity of this Debenture equal to the interest rate which would be set on a loan from the Secretary of the Treasury (Secretary) to the FFB to purchase an obligation having a payment schedule identical to the remaining schedule on this debenture at the date of repurchase, plus all interest calculated from the date of issue or date of last payment of interest, as appropriate, to the date of repurchase.

*Question.* If all companies that are eligible to receive relief from the prepayment penalties took advantage of this offer, what would be the cost to the Federal government?

*Answer.* Under SBA's proposal, approximately 18 percent of the total 503 borrowers will receive relief from the prepayment penalty. If every 503 loan were prepaid with a 504 prepayment penalty, the "cost" would be scored by Treasury as \$163 million (as of August 10, 1993).

*Question.* What is the estimated payment per loan that would be made under the prepayment relief proposal?

*Answer.* The amount per borrower will vary greatly depending on the loan balance, the length of time remaining to maturity and the interest rate.

*Question.* Why is a request being made for an appropriation? Couldn't authorizing legislation be enacted to waive the prepayment penalty to the Federal Financing Bank, provided an offset were found on the direct spending side of the budget? Please provide the committee with a breakdown by state of the companies that would be eligible for this relief.

*Answer.* We did not want this to have to be an appropriation request. The SBA made a number of recommendations to OMB and Treasury on how to resolve this issue administratively, without having to come to Congress at all. On each of these, OMB told us variously that because of credit reform, the Budget Enforcement Act and OMB circular and regulations, or combinations thereof, our recommendations could not be carried out, and that an appropriations request was needed. Further, the full cost of such authorizing legislation would be SCORED under the pay-as-you-

go (PAYGO) procedures set out in the budget enforcement act. A chart showing the 503 loans outstanding by State is attached.

## 503 LOANS OUTSTANDING AS OF SEPTEMBER 30, 1993

State	No. of loans	Total amount
Alabama .....	70	\$8,887,000
Alaska .....	4	1,055,000
Arizona .....	61	13,016,000
Arkansas .....	12	2,069,000
California .....	504	125,007,980
Colorado .....	34	6,284,000
Connecticut .....	28	6,624,000
Delaware .....	17	3,124,500
Washington, DC .....	7	1,624,000
Florida .....	25	4,573,000
Georgia .....	92	15,379,300
Hawaii .....	11	2,912,000
Idaho .....	35	6,259,200
Illinois .....	88	20,277,000
Indiana .....	60	15,069,000
Iowa .....	61	10,795,500
Kansas .....	88	8,498,000
Kentucky .....	67	11,257,000
Louisiana .....	20	5,098,100
Maine .....	25	5,807,000
Maryland .....	46	10,333,500
Massachusetts .....	162	40,177,000
Michigan .....	121	26,793,000
Minnesota .....	95	14,256,000
Mississippi .....	20	4,079,000
Missouri .....	288	42,713,000
Montana .....	2	306,000
Nebraska .....	29	3,141,000
Nevada .....	42	9,160,000
New Hampshire .....	23	6,000,000
New Jersey .....	34	6,321,000
New York .....	131	31,426,700
North Carolina .....	124	22,584,000
North Dakota .....	8	2,103,000
Ohio .....	379	64,106,800
Oklahoma .....	28	5,179,000
Oregon .....	53	10,343,000
Pennsylvania .....	50	10,426,000
Rhode Island .....	55	13,422,000
South Carolina .....	13	2,492,000
South Dakota .....	13	2,176,000
Tennessee .....	25	4,986,000
Texas .....	179	31,685,500
Utah .....	58	11,004,000
Vermont .....	16	4,272,000
Virginia .....	51	9,927,000
Washington .....	133	33,710,875
West Virginia .....	10	1,999,000
Wisconsin .....	127	32,770,000
Wyoming .....	3	306,000
Puerto Rico .....	7	1,990,000
U.S. total .....	3,634	733,804,955

## SBA AND REGULATORY RELIEF

*Question.* Do you see a role for the Small Business Administration in the effort to reduce the regulatory burden on small business? If so, what is it, and what plans do you have in this area in the coming year?

*Answer.* I believe that the SBA will play a major role in small business regulatory reductions. On March 17th, Sally Katzen, Director of the Office of Information and Regulatory Affairs of OMB and I co-hosted a forum which focused on regulatory reform. Small business owners from across the country met with high-level officials from the Executive Branch to discuss the onerous, overlapping and duplicative regulations they face. Subsequent to that forum, five teams of government regulators, each focusing on a different industry, will be meeting to identify what changes can be made in reducing overall regulatory burdens. There will be two more forums, one in the summer and one in the fall, to measure our accomplishments.

In addition, the Office of Advocacy within the SBA monitors and reports on agency implementation of the Regulatory Flexibility Act (RFA). This act requires agencies to analyze the impact of their rules on small entities and, whenever possible, to alleviate the burdens imposed. I, too, am committed to effective working of this act and will work with the Chief Counsel, once he is confirmed, to insure that agencies comply. By analyzing regulations and adopting more flexible regulatory alternatives, I believe that we reduce the cost and time burdens on small businesses.

*Question.* Are you participating in discussions inside the administration to ensure that the President's health care plan does not adversely impact small business? What specifically is your role in that regard?

*Answer.* SBA's role is to educate and inform small businesses about the issues in health care reform and the proposed solutions. The Agency worked closely with the Health Care Reform Task Force, chaired by the First Lady, in order to express the small business viewpoint as the Administration's plan was crafted.

Small businesses have a huge stake in health care reform. They pay more for health insurance than their large counterparts and their costs are increasing at a much faster rate. Small business and their employees are subject to occupational redlining and exclusions for pre-existing conditions. They have very little negotiating power with insurance companies, and the paperwork burdens are enormous. Self-employed individuals have only a 25 percent deduction for health care costs, while other businesses have 100 percent. I have spoken with literally hundreds of small business owners over the past nine months, and I am committed to making these concerns known to the Administration and Congress as the health care reform debate proceeds.

*Question.* Within SBA, the Office of Advocacy is traditionally seen as the focal point of SBA efforts to monitor federal regulations. However, unlike last year, this year's budget justification does not contain a section entitled "improvement of governmental policies toward small business." Has this administration changed the primary objective of the Office of Advocacy? If so, what is now the primary objective?

*Answer.* I can state unequivocally that the mission of the Office of Advocacy has not changed. The statute which created the office remains the same and the President's nominee for the position of Chief Counsel is well known as a strong advocate for small business in the policy making arena.

*Question.* Will the proposed budget decrease of nine positions and almost \$300,000 in 1995 prevent the Office of Advocacy from adequately examining government regulations and the possible adverse impact they could have on small businessmen and businesswomen?

*Answer.* I am confident that the Offices of Advocacy will be able to maintain its vigilance over the adverse impact of government regulations on small business. Like the rest of the SBA, the Office of Advocacy must work smarter and do more with less. Their budget cuts are in line with those undertaken in other programs of the SBA and I believe that the strength of purpose and talent of the Office of Advocacy will enable it to perform its role better than ever. Small business has a supportive administration and one which is eager to achieve the goal of reducing regulatory burdens.

## QUESTION SUBMITTED BY SENATOR MARK O. HATFIELD

*Question.* In the President's Budget Submission for fiscal year 1995, there is a request for \$30 million for your agency to "pre-pay the Federal Financing Bank for debentures guaranteed by the Administration pursuant to section 503 of the Small Business Investment Act." The Congressional Budget Office indicated that a bill I introduced on this topic, S. 737, would cost much more than \$30 million. How does your proposal differ, and how many borrowers would be helped under your proposal?

Will you please forward the specifics of the Administration's proposal to me as soon as they are available?

Answer. The Administration bill would replace the 503 penalty with the 504 penalty, which is widely accepted by small business. The 504 penalty is a market-type penalty that has been used in the 504 loan program, successor to 503, since 1987. It is a penalty that starts at one year's interest if the loan is prepaid in the first year, followed by a straight line reduction to zero at the midpoint of the loan's maturity. For example, on a twenty year loan, the penalty would be one year's interest if the loan prepays in the first year, half of one year's interest if it prepays in the fifth year, and zero if it prepays after the tenth year.

A borrower wishing to prepay would have to pay off the existing 503 loan, but with the greatly reduced 504 penalty. Some sources that a borrower could use to pay off the 503 loan include a 7(a) loan, conventional financing, proceeds from the sale of the business, borrower savings, etc. Under existing law a new 504 loan cannot be used for refinancing. As part of the Administration plan, we will be asking Congress to amend the Small Business Investment Act to permit a 504 loan to be used to refinance a 503 loan. The change would be limited to 503 refinancings only. These would be processed as though they were new loans: same processing, fees, and credit quality standards. The Administration has requested \$30 million in its fiscal year 1995 budget to fund this solution.

S. 737 is similar to the Administration bill. The major difference is that S. 737 does not authorize 504 loans to be used to refinance the 503 loans that are being prepaid.

SBA will make the new prepayment opportunity available first to those borrowers that are paying the highest interest rates. SBA will notify all 503 borrowers with interest rates of 12 percent or higher that for 90 days they will have the first opportunity to avail themselves of the lower penalty. About 28 percent of the loan dollars are in this category. After 90 days, the opportunity to prepay at a lower penalty will be opened successively to borrowers paying interest rates below 12 percent, until either all borrowers are covered or the \$30 million has been exhausted.

We are not privy to the CBO analysis of your bill. It is possible that the higher cost estimate for your bill, S. 737, arises from CBO assuming that every 503 borrower will prepay. The Administration does not share this assumption, nor do the 503 borrowers themselves.

I will be pleased to forward to you the specifics of the Administration proposal as soon as it is available.

#### QUESTIONS SUBMITTED BY SENATOR SLADE GORTON

##### ONE STOP CAPITAL SHOPS

*Question.* How will you determine where the "One Stop Capital Shops" are located?

Answer. SBA will evaluate the proposals of those communities applying for designation as an empowerment zone or enterprise community and that set forth in a detailed strategic plan how the one-stop shops will benefit the community. SBA will measure the proposals for a one-stop shop against the criteria stipulated in the application package.

*Question.* I think these shops could play a strong role in rural communities. How do you plan on making sure that rural communities are included in this program?

Answer. SBA is committed to establishing one-stop capital shops in at least three rural empowerment zones or enterprise communities.

*Question.* Will there be an application process so interested communities won't be looked over?

Answer. Yes. Communities meeting the requisite eligibility criteria may apply for designation as an empowerment zone or enterprise community (including a one-stop capital shop) through the application process in effect now through June 30, 1994.

##### 503 LOAN PREPAYMENT PENALTY

*Question.* Do you feel that \$30 million is enough to address the problem? Why or why not?

Answer. It is impossible to predict borrowers response and therefore we cannot say with certainty how many will prepay and how much additional budget authority will be needed. Because the cost cannot be predicted with certainty, and because of the difficulty of coming up with any funds at all because of the extraordinarily tight budget, SBA believes that the Administration's \$30 million request is a prudent way to proceed. A survey by the 503 borrowers themselves indicates that about "20 per-

cent would and could refinance their loans if the prepayment penalties were eliminated or substantially mitigated." This is consistent with the assumptions that underlie the \$30 million budget request.

*Question.* How does this figure compare to figures released by the Office of Management and Budget and the Congressional Budget Office?

*Answer.* We believe that OMB and CBO have estimated the cost of fixing the 503 program at as much as \$150 to \$170 million. These estimates assumed that every loan in the portfolio would be prepaid. In practice the only borrowers who would find it financially advantageous to refinance would be those who could shave several percentage points off their interest rates. Because a large portion of the portfolio has interest rates that are not enough higher than a new rate, only those borrowers on the upper end of the rate scale would be interested in refinancing. In addition, not all borrowers would be eligible for refinancing under existing credit guidelines.

*Question.* As you know, legislation has been introduced to address this problem. Do you believe it must be passed before affected individuals can prepay their loans without the harsh penalties that are currently in place, or can this issue be resolved administratively?

*Answer.* The Administration carefully explored a number of administrative options, but determined that no administrative solution could be identified that would solve the problem without Congressional action. This action not only includes the provision of appropriations, but also legislative changes to allow prepayment through the 504 program.

*Question.* Does the Administration plan to offer its own legislative proposal to address this problem?

*Answer.* Yes. The Administration's proposal is similar to many of the bills introduced in this Congress to reduce the 503 prepayment penalty. In fact, the Agency's proposal is based on some of the key elements in these bills, as well as the results of many interagency discussions and meetings, the needs of the 503 borrowers and existing budget constraints.

Following is a summary of our proposal's major provisions:

- Payment—replaces the 503 prepayment formula with the current less onerous 504 prepayment penalty formula.
- Opportunity—503 borrowers with the highest interest rates (above 12 percent) would be able to apply first.
- Authorization—the SBA is requesting \$30 million in budget authority to defray the costs of the prepayment penalty for 503 borrowers.
- Available credit—this plan allows 503 borrowers to refinance using the SBA's 504 program.

*Question.* If the Administration plans to offer a legislative proposal, how does it differ from the legislation I have cosponsored which was introduced by Senator Hatfield (S. 737)?

*Answer.* S. 737 is similar to the Administration bill. The major difference is that S. 737 does not authorize 504 loans to be used to refinance the 503 loans that are being prepaid.

#### EXPORT ASSISTANCE CENTERS

*Question.* Washington State is in a unique position to maximize international trade opportunities. The services provided by a Puget Sound-located Export Assistance Center seem ideal for bringing those opportunities to life. The SBA would certainly be getting the "best bang for the buck" by locating a center in the Puget sound. (a) Do you agree?; (b) What criteria were used to determine where these will be located?; (c) How will you determine where the ten centers slated for opening in 1995 will be located?

*Answer.* The Export Assistance Center project has been launched in Miami, Baltimore, Chicago, and Los Angeles. During this first year of operation the Trade Promotion Coordinating Committee (TPCC) will be adjusting and fine tuning programs and services offered by the United States Export Assistance Centers (USEAC's) to fit the needs and demands of the export communities they serve. Should the services of the USEAC's prove to be as helpful to the business community as we believe they will be, we will proceed, as stated in the TPCC report of September 30, 1993, to open an additional ten sites next year to expand this service.

The TPCC Working Group on USEAC's is presently developing criteria which will be used to determine future site selections. These are based on statistical data such as centers of manufacturing, manufactured exports and agency resources. Your points about the state of Washington are well made and we will keep them in mind when considering future site selections.

## PACIFIC NORTHWEST SALMON FISHERY AND THE SBA

**Question.** Based upon forecasts made by state fisheries managers and the North Pacific Fisheries Management Council, it appears likely that there will be either a very limited salmon fishery or no salmon fishery at all off the Washington and Oregon coasts this year. This would be a devastating blow to coastal communities that depend upon commercial fishing, recreational fishing and associated tourism.

Though human impacts have undoubtedly played a role in the decline of Northwest salmon stocks, it is apparent that this year's dramatic decrease in run sizes is due largely to natural conditions in the ocean. A persistent El Niño effect has been cited as a likely culprit.

There is little we can do to increase salmon runs in the short term. However, it is important that we take measures to mitigate the economic impact of the potential cancellation of the fishery.

What existing SBA programs are available to help these communities?

Would the widely acknowledged impact of "adverse ocean conditions" qualify coastal businesses for SBA disaster loans?

Are there characteristics of the fishing industry that might make it difficult for impacted businesses to qualify for assistance? If so, how might these difficulties be remedied?

Are you aware of any programs outside of the SBA that might be helpful to impacted communities?

Would the SBA be willing to work with me to disseminate this type of information to impacted communities before the situation becomes critical?

**Answer.** Public Law 100-590 enacted in 1988, among other things, in Section 119(b)(2) defined the term "disaster" for the purposes of Small Business Administration (SBA) disaster loans authorized under Section 7b of the Small Business Act as follows: " \* \* \* a sudden event which causes severe damage including, but not limited to, \* \* \* ocean conditions resulting in the closure of customary fishing waters, \* \* \* except it does not include economic dislocations."

It is clear in the legislative history Public Law 100-590 that the term disaster includes any sudden event which causes severe damage or economic injury. Also, this history further indicates that the SBA should not disqualify otherwise eligible Governor's requests for disaster assistance solely because those affected suffer economic injury due to events which may not result in physical damage (including ocean conditions such as the El Niño phenomenon).

In order for me to consider a disaster declaration which is not based upon physical damage, the Governor of the affected disaster area must certify that small business concerns in the State have suffered substantial economic injury as a result of the disaster to such a degree as to warrant Federal involvement in the form of subsidized loans. Generally this requirement will be satisfied if five small business concerns in the State (including at least one from each affected county) have suffered substantial economic injury. These requirements are contained in our regulations at 13 CFR subsection 123.41(a), a copy of which is enclosed.

If the Governor should request an economic injury disaster declaration that covers economic injury to coastal businesses as a result of a decline in the salmon fishery, the Governor could cite recognized marine fishery experts' opinion that the "adverse ocean conditions" were sudden and were caused by the El Niño phenomenon.

In order to qualify for economic injury disaster loans, the financial condition of applicant fishing industry concern must, like any other small business applicant concern, show a change in its financial condition attributable to the effect of the specific declared disaster which results in its inability to meet its obligations as they mature, and to pay its ordinary and necessary operating expenses. Of course, the applicant business must show that it does not have credit available elsewhere and can demonstrate repayment ability.

In addition to a possible economic injury disaster declaration, the SBA can provide assistance to businesses in the effected communities through our Agency programs of financial, management and other assistance.

Although I am unaware of other programs outside of the SBA that might be of assistance to impacted communities, the SBA would be happy to assist you in your efforts to help businesses in the State access our programs.

[§ 123.28—13 CFR CH 1 (1-1-93 EDITION)]

#### § 123.41 General provisions.

(a) *Substantial Economic Injury* for purposes of this subpart means a change in the financial condition of a small business concern or small agricultural cooperative attributable to the effect of a specific declared Disaster, as defined (see § 123.3), resulting in the inability of such small concern to meet its obligations as they mature,

and to pay its ordinary and necessary operating expenses. If a small concern was established or has undergone a substantial change of ownership (more than 50 percent) after an impending economic injury became apparent and no contract of sale existed at that time the owner shall be deemed to have assumed that risk, and not to have incurred economic injury. Loss of anticipated profits or a drop in sales which is not disaster-related, is not considered an economic injury for purposes of this subpart. Evidence of loss or injury and of the cause thereof, satisfactory to SBA, must be provided by the applicant (OMB Approval No. 3245-0017).

#### SUBCOMMITTEE RECESS

Senator HOLLINGS. We will be in recess until Thursday at 10 a.m. when we will hear from the Supreme Court and the Federal judiciary.

[Whereupon, at 12:08 p.m., Tuesday, March 1, the subcommittee was recessed, to reconvene at 10 a.m., Thursday, March 3.]



**DEPARTMENTS OF COMMERCE, JUSTICE, AND  
STATE, THE JUDICIARY, AND RELATED  
AGENCIES APPROPRIATIONS FOR FISCAL  
YEAR 1995**

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**THURSDAY, MARCH 3, 1994**

**U.S. SENATE,  
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,  
Washington, DC.**

The subcommittee met at 10 a.m., in room S-146, the Capitol,  
Hon. Ernest F. Hollings (chairman) presiding.  
Present: Senators Hollings, Domenici, Stevens, and Hatfield.

**THE JUDICIARY**

**SUPREME COURT**

**STATEMENTS OF:**

**ANTHONY M. KENNEDY, JUSTICE  
DAVID HACKETT SOUTER, JUSTICE**

**ACCOMPANIED BY:**

**WILLIAM SUTER, CLERK OF THE COURT  
TONY DONNELLY, DIRECTOR OF BUDGET AND PERSONNEL  
ALFRED WONG, MARSHAL OF THE COURT  
ROBB JONES, ADMINISTRATIVE ASSISTANT TO THE CHIEF JUSTICE  
RICK SCHICKELE, LEGAL OFFICER**

**BUDGET REQUEST**

Senator HOLLINGS. This morning the subcommittee will continue its review of the fiscal year 1995 budget by hearing testimony from the Supreme Court and the judiciary.

We will begin with the Supreme Court, whose 1995 request totals \$27,403,000. The budget request for the Court is once again very modest this year, representing an increase of \$1.5 million over the amount appropriated last year and including no requests for program increases or enhancements.

Testifying before the subcommittee this morning we want to welcome Justice Kennedy and Justice Souter. We are honored to have you both here. Sorry to bring you out in this kind of weather.

Senator DOMENICI. Are you really sorry?

Senator HOLLINGS. Yes; to tell you the truth, because we are going to approve what they ask for, and this is the only crowd that asks for less.

Justice KENNEDY. We are glad to be here under any circumstances.

Senator HOLLINGS. Yes, sir.

Senator DOMENICI. They can determine their own caseload, however.

Senator HOLLINGS. Well, their caseload keeps going up. Their budget stays essentially constant. These increases they have requested are really for the uncontrollable expenses such as salaries, travel, law books, and those kinds of things. But, the caseload actually has increased. In 1991, it was 6,770; in 1992, 7,245; in 1993, 7,591. So it certainly is on the increase.

Justice KENNEDY. It is, Senator.

Senator HOLLINGS. Let me recognize you, Mr. Justice.

Senator DOMENICI. Let me just make a brief statement.

Senator HOLLINGS. Sure.

Senator DOMENICI. I have only been a ranking member for 1 year, and I think you know Justice Souter I replaced your good friend, the Senator from New Hampshire, in this position. I have been on the committee a long time, but I decided this was a most interesting subcommittee so I joined my friend, Senator Hollings, and I welcome you here.

Clearly, there isn't any question that we are operating with rather tight resources. But frankly, the Supreme Court's budget would be considered a frugal one, and I am delighted to be here just to hear what you have to say about our process of funding the Supreme Court. Thank you so much.

Justice KENNEDY. Thank you very much, Senator.

#### PREPARED STATEMENTS

Senator HOLLINGS. We have received your written testimony which will be placed in the record along with the written testimony of George M. White, Architect of the Capitol, and then we would be delighted to hear from you, sir.

[The statements follow:]

#### STATEMENT OF ANTHONY M. KENNEDY

Mr. Chairman and Members of the Committee, Justice Souter and I appreciate this opportunity to appear before your Committee to address the budget requirements of the Supreme Court for the fiscal year 1995.

We have with us today Robb Jones, Administrative Assistant to the Chief Justice; Alfred Wong, Marshal of the Court; and Tony Donnelly, Director of Budget and Personnel.

The budget request is divided into two parts. The first part is Salaries and Expenses of the Court, and the second, Care of the Building and Grounds. The total fiscal year 1995 budget for Care of the Building and Grounds is \$3,080,000. Mr. George White, Architect of the Capitol, will submit a statement to the Subcommittee regarding his segment of the total budget.

Our total fiscal year 1995 budget estimate for Salaries and Expenses is \$24,323,000. This is an increase of \$1,323,000 over the budget authority for 1994. The entirety of this increase consists of base adjustments. The major part of those adjustments, \$1,146,000 represents authorized increases in salary and benefit costs. The remaining base adjustments of \$177,000 are for inflationary increases in various fixed costs, allowing us to keep up with the rising costs of normal activity.

We do not propose funding for any new programs this year. We find that, with adjustments for inflation, the budget base the Committee has approved for the Court is adequate to cover our anticipated needs for fiscal year 1995. Nonetheless, we believe it is important that the Committee understand the efforts the Court has undertaken to restructure its operations in order to continue to live within its budg-

et and why, given the continued increase in the numbers of filings with the Court, we may need to seek program increases at some point in the future.

We call the Committee's attention to the Court's increasing workload. Unlike many agencies that appear before this committee, the courts have little or no ability to regulate the amount of work they must do. Instead, they must accept all the cases that are filed and handle them the best they can.

The charts and graphs we have included in our submission from page 1.7 through 1.13, illustrate the continuing growth in the In Forma Pauperis (IFP) filings and the breakdown of the Court's workload between civil, criminal and habeas corpus cases docketed and argued. The number of cases carried over to the next term remains constant, indicating that the Court continues to keep up with the increasing caseload. The statistics do not reflect, however, the hidden workload of the Court, such as returning for essential corrections approximately three IFP petitions for every two that are docketed, returning about 100 stay applications each year that fail to comply with the Rules of the Court, and tracking capital cases that do not involve an application to the Supreme Court or do not result in an order of the Supreme Court.

The increasing burden of capital cases illustrates what the Court must deal with. There are approximately 2,800 prisoners under death sentence in the United States. Virtually all of those prisoners will seek review of their cases in the Supreme Court, many of them through last-minute stay applications on the eve of their scheduled execution dates. As you can see from the table contained at page 1.9 of our budget submission, the number of these stay applications has increased steadily over the past few years. We have had to adjust our working procedures and add staff in the Clerk's Office to accommodate these increases. We expect this trend, represented by the figures in the table, to continue.

Over the past three years or so we have taken advantage of automation and other efficiencies to redesignate functions and positions. This enabled us to hire, as vacancies became available, more skilled personnel, in higher grades, all within existing appropriation authority. As a result, we have not found it necessary to request any additions to staff. But it is important to add that we now have exhausted these means of confronting an ever increasing caseload. We think it inevitable that for fiscal year 1996 we will consider it necessary to request at least one new employee position. Most likely this will be in the Clerk's office, where the burden of analysis and docketing in additional cases has the most direct impact.

This concludes a brief summary of our request. We will be happy to respond to any questions that the members of the Committee may have.

#### STATEMENT OF GEORGE M. WHITE, ARCHITECT OF THE CAPITOL

Mr. Chairman and Members of the Committee: I am pleased to present the fiscal year 1995 appropriation request for the care and maintenance of the Supreme Court Building and Grounds. As you know, the Architect of the Capitol, by authority of the Act of May 7, 1934, is responsible for the structural and mechanical care of the United States Supreme Court Building and Grounds. We are not charged with responsibility for custodial care, which is under the jurisdiction of the Marshal of the Supreme Court and is provided for in another appropriation.

#### FISCAL YEAR 1995 BUDGET REQUEST

In our prepared justifications for 1995, a total appropriation of \$3,080,000 is requested. This represents an increase of \$230,000 over the 1994 appropriation of \$2,850,000.

Mandatory adjustments for various pay and benefits increases are requested in the amount of \$239,000 and price level increases total \$126,000, primarily for the cost of water and sewer services charged by the District of Columbia. These items are offset by reductions for a transfer of lease costs for space rented in the Thurgood Marshall Federal Judiciary Building to the United States Courts salaries and expenses appropriation in the amount of \$130,000, and \$5,000 for one less compensable day in fiscal year 1995. All increases and decreases are detailed in the budget justification.

There are no new workload increases or improvements in services requested in this budget. However, it is requested that \$160,000 be maintained in the budget base for approximately five years for continuation of the elevator improvements program in the Supreme Court building.

That concludes my statement on the needs for fiscal year 1995 for the Care of the Supreme Court Building and Grounds. I will be most happy to supply the Subcommittee with any further information that is needed for the record.

## STATEMENT OF JUSTICE KENNEDY

Justice KENNEDY. Mr. Chairman, Justice Souter and I bring you greetings from the Chief Justice and from my colleagues. We have here with us today officers and staff of our Court: Mr. William Suter, the Clerk of the Court, and Mr. Tony Donnelly, who is Director of Budget and Personnel; Alfred Wong, Marshal of the Court; Robb Jones, the Administrative Assistant to the Chief Justice and Rick Schickele, our Legal Officer.

As you pointed out, Mr. Chairman, our budget request is really in two parts: The first is for expenses and salaries for the operations of the Court, and that is the \$24,323,000, which is an increase of \$1,323,000; the second is a budget request of \$3,080,000 for the buildings and grounds which has been addressed separately in the written statement of George M. White, Architect of the Capitol.

As you pointed out, Mr. Chairman, the increase for the Court is not to the base. These are just adjustments to the base. They consist of what we consider to be necessary and authorized and required increases in salaries and benefits. That is the major part of the increase; \$177,000 of the increase is for a rise in fixed costs from ordinary inflationary increases, such as in the cost of books. Books seem to go up even more than the inflation rate.

We had generated internally and, we thought, justifiably, requests for four additional staff positions, but our people advised us that for the coming fiscal year we can live within the existing base and with the budget that we have submitted to you for your approval.

I think it is important that we point out the very substantial efforts and acute measures that our staff has taken in order to live within the budget in light of the increases.

At page 1.10 of the submittal you will see a chart showing the workload of the Court in terms of filings. The lower line are the so-called paid dockets, and that remains relatively constant.

The unpaid docket consists almost wholly of criminal cases and is on a steady increase. Senator, since I have been here, in 5 years it has increased more than 40 percent. A lot of people think that these are pro se, frivolous cases, but that is not right. These are the criminal cases with CJA counsel as well as pro se, and from this our criminal docket is generated.

What you see here is a tremendous burden on our staff, because all of these cases have to be processed. For every two criminal filings that are accepted three are turned back. You do not see that there. Our people have been quite resourceful in shifting and redesignating and reassigning positions as vacancies come up in order to take care of automation. Automation is not necessarily a cost saving. You have to have a more skilled person to do it, but we have done that, and by judicious reallocation we have managed to stay within existing staff levels and yet meet this workload.

Capital cases present another example of hidden costs. On page 1.9 you will see the applications for stay in capital cases. Again, these are the ones that finally get to us. Our people are required to track the stay applications in the lower court, so that number of 80 here is just the number of capital cases that we get that we

must act on, and that is about one every 3½ days. These are very, very substantial matters, but our clerk's office is tracking far more of these to ensure that we know about the 90 that we do get. The 2,800 condemned prisoners in the United States, again, is a very, very substantial burden on the Court and on our resources.

While we have been successful, Senator, in living within our staff, meeting these demands, we think that we have run out of options and alternatives, and we anticipate that next year we will come to you with a request for an increase of staff. But as of this year, we can live within the existing base, and we are quite satisfied that the submittal we have made to you is adequate for our needs.

I don't know if Justice Souter has some comments at this time or would prefer to wait for your questions.

Justice SOUTER. I understand that I am really here to carry Justice Kennedy's briefcase. [Laughter.]

I will wait.

Senator HOLLINGS. You have got to watch your remarks. I will never forget when Justice Stewart came before the committee. Justice White and he came together. Justice White and Justice Stewart were very serious about transportation costs. The Chief Justice had a limousine, but the Court wanted to be very economical and frugal and they just wanted to get a Ford to use; they got down to how many miles per gallon and everything else; what the Ford cost versus the limousine. I looked at him, and I said, "Mr. Justice, have you ever thought of bussing?" [Laughter.]

Potter Stewart never did forgive me for that. [Laughter.]

Justice KENNEDY. In those days they thought of little else, Senator. [Laughter.]

#### REVIEW OF PETITIONS FOR CERTIORARI

Senator HOLLINGS. The first question I have is really one of the policy itself of permitting the Court staff to determine cases meritorious of review. In other words, I am the lawyer; I bring the cases. While I know we have got supreme confidence in the justices of the Court, I would have sort of an unsteady feeling if I was stiffed and my case never was reviewed by a justice or the justices themselves. Do you see what I am saying?

How many hundreds of cases or thousands of cases do you receive? You said three out of the five cases never get to you. Then, you are looking at the two and the staff is looking at the three? Do you ever really get a final look-see at that three?

Justice KENNEDY. Oh, yes.

Senator HOLLINGS. To approve the staff review of it?

Justice KENNEDY. As you know, we have a memo prepared by one of our clerks. Every docketed petition for certiorari is assigned to a law clerk in the cert. pool. While we have different methods in our chambers, I look at every one of those memos.

Senator HOLLINGS. That is good. The reason I approach the entire question with the idea of a modest request is that over the years I have watched the Court, and they never have really come in with any kind of extravagant request. The fact is when Justice Lewis Powell came on, and having practiced with him, he was telling me how he had better facilities over in his own law office in

Richmond than what we had up here in the Supreme Court. This was a shock to me. So, we went to work and got word processing and found clerks who were smart and could also type. We cleaned it up so you folks can really think, get out, get around, and experience real life and make the judgments that you make.

We are not cutting that staff too closely then?

Justice KENNEDY. Not at this point, and so far as our personal staff, and Justice Souter might want to comment as well, I would not want more than four personal law clerks. I just don't think I could pay enough attention to them and make it worth their while as well as worth mine to have them.

As you know, these are wonderful young people here with us for 1 year, and we take all of that energy that they have and I tell them, "You will have to work here until midnight. I can't do that, but you are going to have to be here until midnight finishing that work," and they do it. They are wonderful people.

But it would be difficult for me to, I think, absorb a fifth law clerk. We are concerned about it, because we are looking at, in just a few years, 10,000 filings.

Senator HOLLINGS. Right. Both of you look at it, and if there is a different judgment or you feel otherwise, please let us know.

#### FEDERALIZING CRIMES

As you know, the crime bill is now before the House and it seems we are trying to federalize every crime. Up here in Washington, we try to identify; we don't solve any problems, but we sure do, as the Court says, identify.

So, we are federalizing everything that we can. If a crime was committed with a pistol here, we have got minimum sentences there, guidelines and everything else. With this superimposition of criminal work on the Court itself, I am concerned that we not turn you folks into a police court where you are looking at the records and everything else of that kind and have no time for civil work.

Justice KENNEDY. You said the magic words, "police court," because we are very, very concerned that that is going to be the effect of a number of these proposals.

Right now in the U.S. district courts about 48 percent, just under 50 percent, of all trials are criminal. Of our civil docket in the district courts, 96 percent of the civil filings settle; only 4 percent of those cases are tried. In part it is because the civil docket is hard to reach.

We are very concerned about the character of our Federal system, of our Federal courts. We need judges that can try complicated antitrust cases and securities cases and to enforce the Federal law in copyright and patent areas. If you tell a judge that he or she is going to be spending 80 percent of judge time on minor criminal matters, he or she is not going to be interested in taking that position.

So we are very concerned about what these proposals will do to the character of the Federal Court and, of course, the underlying observation that you made as to your statement is that it involves the whole Federal system, the whole Federal balance.

Senator HOLLINGS. Is it appropriate that we even ask about the crime bill? Do you have any comment? Have you folks in your trav-

els and in conversations, have you heard comments or suggestions, rather, to the crime bill that we have under consideration now?

I can understand if you wouldn't want to, but if you did, it would be very helpful to both of us; I can tell you that.

Senator DOMENICI. Mr. Chairman.

Senator HOLLINGS. Yes.

Senator DOMENICI. Could I comment on your previous statement just for a moment?

Senator HOLLINGS. Sure. Yes.

Senator DOMENICI. First, let me assure you that this Senator is aware of the dignity of the U.S. Supreme Court. It is one of the very, very interesting phenomena of our system, that when you interpret the laws people conclude that it is the law, and that isn't the case in very many places in history.

So I clearly am on the side of funding the U.S. Supreme Court to the extent that the Justices, whom I consider to be very, very honorable people, say we need the funding.

Mr. Chairman, I happened by accident, coincidence, to know about four of their clerks. That is because three that I know were in the same graduating class at Stanford as one of my sons. So as they migrated back here I got to see them. I, on occasion, have a dinner with them. They don't talk about the details, about the substance, but they sure do talk about the workload, and there isn't any question that to the extent that you now have a system of using them, they work, and I am sure they work in a way that is helpful to all of you.

Clearly, from the ones I have met, you are getting some rather exceptional talent. They might be overenergized, but that is one of the marvels of growing up, and we surely shouldn't be very upset about that.

Having said that, let me tell you, Mr. Chairman, and Justices, I decided to take, on this last visit to my home State, to take 2 days and talk to policemen—policemen who work the beat of our high schools or deal with gangs, so they almost are assigned to schools, Mr. Chairman; to the 30 or 40 just ready to go out on the beat. I come to the conclusion that in my State, and I think it may be the case almost everywhere, that the law enforcement people feel the criminal justice system at the State level doesn't work.

It is not your job, it is ours, to talk to these people and find out the problems. But they are saying the juvenile codes of the States are not current with the kinds of problems we have got today. They are saying crooks and criminals know how to beat the system, and Justice Souter, let me tell you what they said to me. They said:

If you will stay around with me for 2 or 3 days, we will identify every hardnosed teenaged criminal in a school. We know them by name; we know who they are; we know what they have done and we know what they are going to do next, and nothing happens.

#### EXPANSION OF FEDERAL JURISDICTION

Frankly, I am not in accord with the proposition that we should not expand the criminal jurisdiction of the Federal system. I am for doing that, and I am for giving them resources to do it, because I believe that the system that is working in terms of criminal justice is your system. I mean, if you don't think a hardened criminal is

a lot more apt to change his ways if he knows the Federal courts are after him and the attorneys of the Federal system are after him, then go out and ask the law enforcement people.

They know. In fact, their lawyers cry to the district attorneys to try to keep the Feds from taking jurisdiction over a case, because they are going to get convicted if they are guilty and they are going to be put in prison. I don't know what else to do.

Senator Hollings and I, I think, in philosophy agree on crime and the death penalty and those things maybe 100 percent.

But frankly, I am not for coming to the conclusion that we can't do any better with reference to certain kinds of crimes, and maybe we ought to ask you all when we are looking at a lot of them which ones would be more fitting with the dignity and the quality of the courts.

But I think the American people would answer in rather large numbers that if you can add some certain serious crimes to the Federal courts that are going unattended out there, if you could put them in the Federal system and have a rapid trying of cases and the like, I think they would say, "Give them some additional money and let them do it."

That is only my view, but I might tell you: You have got to go out there and listen—not you, but we do—to the cry of law enforcement about the criminal justice system.

Thank you, Mr. Chairman.

Senator HOLLINGS. Thank you.

#### IMPACT OF FEDERALIZING CRIMES

Justice KENNEDY. There is no doubt, Senators, that the foundations of this society are imperiled by violent crime, and any civilization, any people, any country that has an organized legal system is absolutely entitled to insist on the security of its people as a right. To have children being shot in swimming pools and in school rooms and drive-by shootings is simply unacceptable.

The Federal judiciary, of course, is well aware of that idea and that concept and that overriding concern. We hope that it is recognized that the States and their chief justices, who have met and looked at the crime bill, have the same earnest commitment that we do.

Remember that the Constitution is in part safeguarded by the courts in separation of powers areas, but the structure of federalism is guarded by this body. The Federal judges cannot referee the boundaries of federalism. It is for you to decide at your discretion and your political power how far you wish to extend the power of the Federal Government.

When you have a proposal that makes it a Federal crime to carry a hand gun in the committing of a crime, you have serious systemic consequences that result. For example, it entails a requirement of the Federal officer, probably FBI, to go to the State holding facility to interview. Two different jurisdictions are now taking a statement, both of which have to follow our rules for confessions. There has to be a decision as to which jurisdiction will prosecute; there have to be U.S. attorneys to prosecute these crimes.

If you add crimes without adding U.S. attorneys, you are just shifting the kinds of crimes that will be prosecuted, so ultimately,

you are going to have to have a very substantial increase in U.S. attorneys offices and then U.S. judges.

You just have to ask whether you can keep the character of your system, which has a historical commitment as you have recognized for very good reasons, to vesting most of the police power in the State.

These are the kinds of things that you have been thinking about, and you are charged with making that decision. We do see some very serious concerns just from the standpoint of keeping the character of the Federal system if you begin to add on police duties.

Maybe Justice Souter has something to add.

Justice SOUTER. I have to say that when I go back to my own home town, if I could capsule the concerns of the Federal judges there into one sentence, it is that they are being turned and are in jeopardy of being turned into police court judges. The fact is, I don't turn a deaf ear to the kind of concerns that Senator Domenici has expressed, but I am afraid I don't have very much optimism that the Federal courts can be turned into courts of unlimited criminal jurisdictional competence without, on the one hand, incapacitating those courts from doing what they do well now, and on the other hand, denigrating the State courts until the expectation of State responsibility evaporates.

Part of the buck has got, it seems to me, to stay where it is. If not, what we understand as a concept of rather pragmatic federalism is going to be a historical dead letter and the capacity of the Federal courts to do their work will be much diminished.

Senator DOMENICI. Mr. Chairman, could I just make one last comment on this? First of all, I would like to see it work differently, so I want you both to know that. I don't know how the announcement within the last 36 hours by the administration to use not the judicial system but the executive branch powers of the FBI and the Attorney General to help local resource teams to help prosecute locally will work. That is a nice halfway mark, it seems to me, between expanded jurisdiction and the reality that the State courts, the judges, DA's, all of those, need help.

I am anxious to find out from the Attorney General just how that is going to work, and it may indeed permit me to feel more sanguine about the fact that we are doing what we can to be more helpful.

We will have the Attorney General up here, and I assume we can ask about that program, whether they use their resources to help the States in that analysis, Mr. Chairman.

#### BREAKDOWN IN SOCIETY

Senator HOLLINGS. Let me just make a brief comment to your question, and not in dispute, but just by way of observation. As Governor of South Carolina, I have been the chief law enforcement officer; I didn't just talk to them. That was in the days when, in 1957 to 1962, we first had wade-ins, bury-ins, and sit-ins. In that 4-year period, I was the only southern Governor that could say no one was seriously hurt and no life was lost. That was because we were like Gen. Nathan Bedford Forrest: We were out there firstest with the mostest. We had law enforcement. I had to gather them around from hither, dither, and yon, but we made it known that

nobody was going to, by gosh, get hurt and nobody was going to step out of line. I can elaborate on that in some colorful ways, but right to the point, today there is a breakdown in society more than a breakdown in the system.

When I first came up here, as you went into Paul Young's or Duke Ziebert's or the Occidental, there was a black waiter. The minorities had the entry-level jobs in the loading docks, the warehouses, the truck drivers, the restaurants, and everything else.

Today in this town the white folks or the Vietnamese, or Koreans have taken over; there is no entry-level job for a young black. So he stands on the corner for a couple of hours and makes \$500. Don't tell him about working at McDonald's. Families? Twenty years ago, easily, I was out in Bermuda, and I looked at a Navy lieutenant and she was the best tracker of those submarines coming out. She was expecting and I said, "Is your husband assigned here also?" She didn't have a husband. That's 20 years ago when you and I had pregnant naval lieutenants without a husband. That would have been shocking in, let's say, Strom Thurmond's day, but in my day, too.

There has been a breakdown in society; it is not so much the system. Mr. Justice, at the State level they are just like us: They don't want to use the word "tax," but it takes resources to address this crime problem. I have been trying to get the bills paid up here, and yes, you get spending cuts, but you have got to raise some taxes too. I found that out.

I got a AAA credit rating at the State level and got the taxes passed by one vote. That is how I got it, but up here you can't use that word, and down at the level now of the States they are saying the same thing. The States don't want to raise taxes to pay for their criminal justice needs—they want the Federal Government to step in and pick up the costs. So, we have got a new State prison in South Carolina that is already built, but they don't have the money to man it.

It isn't the system; it is society; and, it is also politics at the State level. Basic police power is the responsibility of the States. We just can't get into that. We ought to make the States do their job.

#### LAW ENFORCEMENT COORDINATION

I do support, however, coordinated efforts—Federal law enforcement working side by side with State and local law enforcement—I just don't think we should take over what is inherently a State responsibility. We've had coordinated efforts in South Carolina for sometime, and they have been very successful. Just a week ago, Attorney General Reno was calling for doing more of the same thing—pooling resources together in the fight against violent crime. Now, there has always been a jealousy and a pull and a tug between DEA, FBI, ATF, this group, that group, county sheriff, highway patrolman, those kinds of things, but if we get them working together in a coordinated fashion—going from one solicitor's district over to the other or from one State over to another, we coordinate ourselves, provide a focus and follow through on it, then we begin to work on improvement in the system. But, simply running up to the floor of the Congress and saying, "Whoops, this murder here,

that is terrible, we must make that a Federal crime," is not the answer. Unfortunately, however, when you vote "no" on making it a Federal crime, recognizing that murder has always been under the common law at the State level and under their police powers, it is the silly pollsters that control these politicians up here that say, "Wait a minute. When you vote not making murder a Federal crime, that means I am going to put on a little snapshot and say 'You are for murder' in the next campaign." That is the kind of childish nonsense that goes on up here.

Basically, the system is good. Granted, there are some improvements that can be made, and we can go through them all, but simply running up on the floor and saying, "I want to identify with every crime so I vote aye, I vote aye" does nothing to improve the criminal justice system.

The crime bill talks above three strikes and you're out. I remember when I was a trial lawyer and had a client on murder. I said, "Look, son. You bet your bippy. You better level with me. You are going to the electric chair." Back then it was, "One strike, you're out." I never heard you could get two more murders before you finally start serving. I never, ever thought that nonsense.

#### CRIME BILL

Now we have heard each other on crime. Maybe, Justice, you want to testify. I want to ask you about that crime bill. Is there any comment you would like to make, either one of you at all, that would be helpful to us?

Justice KENNEDY. I think we have been talking here in very general terms. I have not looked at the crime bill in detail. It would be inappropriate for me to comment on it provision by provision.

I do think that what both you and Senator Domenici have said indicates that the public has a commitment now to do something to arrest the increase in crime and violence and to deter it and to stop it. There is sufficient time for us to reflect and to adopt wise and prudent measures consistent with our values and our constitutional system in addressing those concerns.

You mentioned, Senator, the death penalty cases in the Federal area. This is also of great concern to us. A death penalty trial is basically two trials, because there is the issue of guilt or innocence, and then there is the penalty-phase trial which is very complex, with psychiatric testimony coming from both sides.

Records in California of death cases run to 20,000 pages. When I hear of 50 to 60 Federal death penalty crimes, you are simply going to block the courts of appeals of this country from being able to address other important issues for years while they digest and define and understand these new criminal provisions. So there is this very serious systemic concern. But I do think that by giving your financial assistance and your support and your attention to the efforts of the States, that you could make headway.

Of course, there has to be increased Federal jurisdiction, perhaps, in some areas. If there is a Federal interest, if there is a Federal need, then you must act.

## ACCOMMODATION OF VISITORS

Senator HOLLINGS. Tell us about the access to the Court itself—physically over there—I understand you have about 900,000 to 1 million tourists a year. Is that correct?

Justice KENNEDY. We do. I was surprised when I came to the Court to find out that we are one of the bigger tourist attractions in this city, and we have just under 1 million visitors a year; we have over 100,000, Senators, that will see an oral argument for a few minutes. There is a 3-minute line or a 4-minute line—we usually let them stay longer—and that is enough for many people to see the justices, that they are all present.

Justice SOUTER. Sometimes that is enough for us, too. [Laughter.]

Senator DOMENICI. I wondered when he was going to say something.

Justice KENNEDY. And, of course, we have any number of foreign visitors, and we think that is an important part of our position, to work with members of the justice systems from other countries, especially the emerging democracies.

Senator HOLLINGS. The Architect has taken care of physical needs and everything else of that kind?

Justice KENNEDY. I had hoped that George White, the Architect of the Capitol, would be here, so I could say to you in his presence how pleased we are with what he has done with the building. There was some serious structural work that had to be done because the foundation was sinking, and as part of that work he had stonemasons clean that building, and it had 50 years of accumulated grime and pollutants removed from it. It has never looked more splendid. On the next sunny day, Senator, you can take a look over there and be very proud of it.

Senator DOMENICI. I walk right by it all the time. I live over there. It is an improvement.

Senator HOLLINGS. Oh, yes.

Do you have any questions?

## IMPACT OF FEDERALIZING CRIMES

Senator DOMENICI. Mr. Chairman, I don't have any questions. I want to apologize if I brought a subject up that—

Senator HOLLINGS. Oh, no.

Senator DOMENICI [continuing]. Burdened you justices to hear my concerns. Clearly, I would say to my friend, Justice Souter, I don't think that people trying violent felony cases that carry 30-year sentences where people were maimed or murder cases, I don't think they call that police court.

Justice SOUTER. No; but Senator, if every crime committed with a gun that is moved in interstate commerce is going to be a Federal crime, then the Federal courts are going to be police courts.

Senator DOMENICI. Right. My last comment, Mr. Chairman, you commented on the fact that society has broken down.

Senator HOLLINGS. Oh, yes.

Senator DOMENICI. I surely don't want my silence on that subject to be an indication that I think we can solve the societal problems

of crime and violence exclusively by making sure our judicial system works.

Senator HOLLINGS. Education, I know.

Senator DOMENICI. That just may keep things from growing even more out of proportion, but there are a lot of things we have to do to help the young people of this country. There is no doubt about it. It is not your job, but something bad is happening out there. I really believe they are not even sure they are committing crimes at some point.

Justice KENNEDY. Senator, the law lives in the consciousness of the people, the whole people, and we must do much more to instill in our young people at the earliest age the idea of the dignity and the essential stability of our legal institutions. Our legal institutions are fragile if they are attacked, and they are very, very strong if they are understood.

Senator HOLLINGS. We really appreciate both of you being with us this morning. Thank you, sir.

Justice KENNEDY. Thank you very much, Senator.



**COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL  
SERVICES**

**ADMINISTRATIVE OFFICE OF THE U.S. COURTS**

**STATEMENT OF RICHARD S. ARNOLD, CHIEF JUDGE OF THE EIGHTH  
CIRCUIT; AND CHAIRMAN, BUDGET COMMITTEE OF THE JUDI-  
CIAL CONFERENCE OF THE UNITED STATES**

**ACCOMPANIED BY:**

**JOHN M. WALKER, JR., U.S. CIRCUIT JUDGE FOR THE SECOND CIR-  
CUIT**

**L. RALPH MECHAM, DIRECTOR, ADMINISTRATIVE OFFICE OF THE  
U.S. COURTS**

**BUDGET REQUEST**

Senator HOLLINGS. The subcommittee will now hear from the judiciary, whose request for fiscal year 1995 is \$3,107,753,000, an increase of \$364 million, or 13 percent more than the amount appropriated last year.

Testifying on behalf of the courts is Judge Richard S. Arnold, Chief Judge of the Eighth Circuit and Chairman of the Budget Committee of the Judicial Conference of the United States. Joining Judge Arnold is Judge John M. Walker of the Second Circuit and Mr. L. Ralph Mecham, Director of the Administrative Office of the U.S. Courts.

Let me first commend you, Judge Arnold, on the budget request. It is less than the total amount requested last year, although you are seeking a slight increase. It is obvious you folks have done a thorough analysis and instituted efficiencies and oversight. We are really pleased to see that. Senator Domenici and I have really a task at hand here trying to comply with these spending caps and otherwise.

**PREPARED STATEMENTS**

Let me, before I turn to my ranking member, enter in the hearing record statements of Judge Helen Wilson Nies on the request of the U.S. Court of Appeals for the Federal Circuit, Judge Dominick L. DiCarlo on the request of the U.S. Court of International Trade, Judge Richard S. Arnold, L. Ralph Mecham, on the request of the Administrative Office of the U.S. Courts, Judge William W. Wilkins, Jr., on the request of the U.S. Sentencing Commission, and Judge Schwarzer on the request of the Federal Judicial Center.

[The statements follow:]

**STATEMENT OF RICHARD S. ARNOLD**

Mr. Chairman and Members of the Subcommittee: Thank you for the opportunity to appear before the Subcommittee and present the Judiciary's 1995 budget request.

Accompanying me today are the Honorable John M. Walker, Jr., United States Circuit Judge for the Second Circuit; L. Ralph Mecham, Director of the Administrative Office of the U.S. Courts.

I would like to start by thanking all the members of the Subcommittee for your help and support on our 1994 appropriation. As you know, 1993 was an extremely difficult year for the Judiciary, requiring painful cutbacks in virtually every program and activity. The Subcommittee's willingness to work with us and provide sufficient funds for 1994 was crucial to the effective functioning of the court system. We recognize how difficult it is to allocate increasingly scarce resources to the many deserving programs, and we greatly appreciate the efforts you made on our behalf. We also recognize that the federal government will continue facing tight fiscal constraints for years to come, and we are committed to doing our part. Numerous activities are underway to keep costs down, operate more efficiently, and improve services. Let me briefly describe some of these initiatives, and how our 1995 request contributes to these efforts. These and other initiatives are also discussed in a recent report, which I would like to submit for the record, describing how our efforts over the last several years are meeting recommendations made in the Vice President's recent National Performance Review.

*Cost Containment Efforts at the Local Level.*—The entire Judicial Branch is involved in an active cost-containment campaign. Hundreds of cost-cutting ideas have so far been presented from judges and court staff nationwide and are being shared through newsletters, reports, and other means. Court managers are implementing new ways of doing business to achieve more with less. For example, the Bankruptcy Court for the Middle District of Tennessee developed a system that allows for postal discounts by bar coding high-volume bankruptcy notices. The court estimates that this can save up to \$80,000 a year. As another example, the District Court for the Southern District of Illinois instituted more efficient jury procedures following a Federal Judicial Center seminar on juror utilization and management. The court expects to save up to \$60,000 a year.

*New Economy Subcommittee.*—In addition to local efforts such as these, the Judiciary has established a formal mechanism for identifying better, less costly ways of doing business. On September 20, 1993, the Judicial Conference of the United States established a Subcommittee on Economy of the Conference's Budget Committee. The Subcommittee's mission is to coordinate the Judiciary's efforts to achieve greater fiscal responsibility, accountability, and efficiency. The Subcommittee is now working on several program analyses with the Conference's program committees. The Subcommittee has also been reviewing the Judiciary's budgetary processes to minimize differences from the Executive and Legislative Branches so far as the technical aspects of budget presentation are concerned. You will find that our 1995 budget request is consistent with those of Executive Branch agencies. In short, I am confident that this Economy Subcommittee will greatly benefit the Judiciary and perform the Office of Management and Budget-type function that the Congress last year encouraged us to establish.

*Long-Range Planning.*—In a related effort, the Judiciary continues concentrating on long-range planning. The Judicial Conference's Long-Range Planning Committee, established in 1990, is carefully examining the Judiciary's structure, jurisdiction, and operating methods. It is addressing issues such as how the Judiciary can best organize itself to handle the federal courts' expanding jurisdiction and resulting rapid workload growth. The Committee expects to present a plan to the Conference early in 1995.

*Three-Branch Coordination.*—For these and other efforts to be successful, the Judiciary must communicate and cooperate closely with the Executive and Legislative branches. The Judicial Conference's Executive Committee is leading the way in this area. The Committee is focussing initially on the relationship between the Judiciary and the Department of Justice, and will be meeting quarterly with the Attorney General and her top staff. In addition, working groups composed of judges, senior Administrative Office personnel, and high-ranking Justice Department officials have been created to discuss matters of common concern such as institutional cooperation; crime, federalism, and the exercise of concurrent federal jurisdiction; security and facilities; prisoner issues; and budget issues.

I expect that the pending anti-crime legislation will spur much discussion at these meetings with the Justice Department. The Judiciary is concerned about the Senate-passed version of the crime bill, which would federalize numerous crimes now prosecuted in state courts. Hundreds of thousands of new cases could fall under federal jurisdiction, with enormous cost implications if they were, in fact, tried at the federal level. Of course, the number of criminal cases that actually would reach federal courts would depend on how many the Justice Department could afford to

bring, which cannot be known at this time. Any caseload increase, however, would require additional resources for the courts.

*Fiscal Year 1995 Budget Request.*—I would like to describe briefly the Judiciary's fiscal year 1995 budget request, which is the result of a rigorous process of review and reduction. It totals \$3,105,503,000, an increase of \$364,295,000, or 13 percent, over our 1994 level. Our funding is scored under both the mandatory and discretionary budget caps. The discretionary component of our request (\$2,845,021,000) is only 11 percent over the 1994 discretionary level.

Most of our requested increase would fund inflation and other uncontrollable adjustments needed to pay for existing judicial officers and staff and to continue current operations (\$280,316,000). The rest is needed to improve services and respond to our most urgent workload demands (\$83,979,000). The request for the Judiciary's principal programs are summarized below.

#### SALARIES AND EXPENSES

The salaries and expenses of the circuit, district, and bankruptcy courts, and probation and pretrial services offices account for most of our request. A total of \$2,476,693,000 is included for this activity, \$320,693,000 over the 1994 level.

Most of this increase (\$251,093,000) would fund uncontrollable costs such as inflation and the annualized costs of 1994 changes. It also includes rent and related costs associated with new space the General Services Administration (GSA) will deliver in 1995. We have more information from GSA regarding the delivery of 1995 space than we have had in past years and are able to monitor schedules more carefully than before to keep you fully apprised of any delays that would reduce this funding increase.

The remaining portion of the increase (\$69,600,000) would fund personnel, automation, and other changes to ensure we meet our workload demands as well as possible. This amount funds primarily the following:

*Additional Court Support Personnel.*—An increase of \$46,126,000 would fund 1,165 new court support staff positions. Primarily, this includes \$18,798,000 for 559 employees in circuit and district clerks' offices, and \$25,486,000 for 584 new probation and pretrial services officers and supporting personnel. This increase will be offset partially by a decrease of \$10,986,000 and 247 positions in bankruptcy clerks' offices. The net increase would be \$35,140,000 and 918 positions.

These changes would bring staffing to only 86 percent of the level that should be on-board to meet projected 1995 workload. This level is far from ideal, but it is a sacrifice we are prepared to make in these hard budgetary times. It is our hope that this level of staffing will still enable the courts to deliver adequate services to the public, the bench, and the bar. The Judicial Conference carefully considered this issue and determined not to request a full complement of staff given the enormous pressures on the federal budget. Because our budget consists predominantly of personnel and associated costs, this is the only way we can limit budget growth.

I would like to point out that it would not even have been possible to request a staffing level this low if we did not have a plan for eliminating the wide staffing disparities that varying workloads, attrition rates, and other factors have caused from court to court. A special advisory council was created which recently completed an innovative plan for redistributing employees from comparatively well-staffed offices across the country to those in greater need. The Executive Committee of the Judicial Conference approved this plan in December, and we have begun to carry it out. A report on this activity was sent to Congress on January 31, 1994, as requested in the Conference report on the fiscal year 1994 appropriations bill.

*Judicial Officers.*—An increase of \$8,015,000 is requested for new judicial officers. This includes \$6,639,000 for 12 new magistrate judge positions and the conversion of 2 positions to full-time, plus 55 support staff positions. This increase is needed to help Article III judges handle the large volume of civil and criminal cases facing the courts. In addition, \$1,376,000 is included for 6 recalled bankruptcy judge staff years and associated personnel to help manage the pressing caseload facing certain bankruptcy courts.

*Tenant Alterations.*—An increase of \$10,000,000 is included to fund a number of building alterations. These projects are needed to ensure that building space adequately meets our needs.

*Automation Projects.*—Finally, an increase of \$15,415,000 is requested to continue existing automation activities, which are critical to smooth and efficient court operations. These include the development and implementation of an integrated library system, an improved personnel and payroll system, a standardized financial system, and a more modern jury selection system. These funds would also be used to continue expanding the data communications network (DCN) and the probation and

pretrial services automated case tracking system (PACTS) to additional courts. The DCN is the means through which the Judiciary communicates electronically within and between court offices, and with external databases. PACTS is the system through which probation and pretrial services offices process cases.

Our automation program is financed through the Judiciary Automation Fund, which includes funds appropriated to the Judiciary for automation purposes, user fees, reimbursements, and surplus equipment sales. The Fund also provides for multi-year contracting authority. The Fund's authorization expires this year. We have submitted language in the Federal Courts Improvement Act of 1993 that would reauthorize the Fund through 1999. We have also requested the extension as a General Provision in our appropriations language, because of the critical nature of the extension and the possibility that legislation could be delayed. Anything you can do on our behalf to ensure that this important change is made would be very much appreciated.

#### DEFENDER SERVICES

A total of \$290,283,000 is requested for the Defender Services program, which provides representation for indigent criminal defendants. This is \$10,283,000 over the 1994 level.

Most of the increase (\$8,390,000) is needed for uncontrollable costs, such as pay and benefit cost adjustments and inflation. This includes a rate adjustment for private panel attorneys commensurate with the pay adjustment included for federal employees. Panel attorney rates in 78 of the 94 districts have not been raised since 1984, a circumstance that impedes our ability to attract qualified attorneys to serve as court-appointed counsel. We hope this rate adjustment will lessen the problem somewhat.

The remaining increase (\$1,893,000) would fund one new death penalty resource center and six new federal and community defender organizations. Last year, the Congress urged us to establish more defender organizations as an alternative to using panel attorneys in districts where this would be appropriate. With these funds, we would have defender organizations in 72 districts in 1995, up from 55 districts in 1992.

#### FEES AND EXPENSES OF JURORS AND COMMISSIONERS

We request \$74,071,000 for the Fees and Expenses of Jurors and Commissioners appropriation. This amount funds inflationary adjustments and a projected increase in the number of juror days, offset by carry-over funds from 1994.

#### COURT SECURITY

For the Court Security program, we request \$97,532,000, an increase of \$11,532,000 over 1994. In addition to funding inflation and other uncontrollable costs (\$3,536,000), this increase would provide for 276 new court security officers (\$7,996,000). These additional officers are needed to meet the courts' most urgent requirements for security services. Funds are also included for six reimbursable positions in the Administrative Office (AO) to provide greater oversight of this program, which is administered by the U.S. Marshals Service. Recent reviews of the program by the AO and the National Academy of Public Administration have recommended that the Judiciary become more involved in managing court security resources. A General Accounting Office study, currently being finalized, is also expected to make this recommendation.

This concludes my discussion of the Judiciary's fiscal year 1995 budget request. We are making significant progress in ensuring that we use our limited resources as productively as possible. I am quite confident that this progress will continue. Thank you again for the opportunity to appear before you today.

#### JUDICIARY REFORM: A STEP AHEAD—OCTOBER 1993

##### JUDICIAL CONFERENCE OF THE UNITED STATES

Chief Justice William H. Rehnquist, Presiding  
 Chief Judge Stephen G. Breyer, First Circuit  
 Judge Francis J. Boyle, District of Rhode Island  
 Chief Judge Jon O. Newman, Second Circuit  
 Judge Charles L. Brieant, Southern District of New York  
 Chief Judge Dolores K. Sloviter, Third Circuit  
 Chief Judge John F. Gerry, District of New Jersey

Chief Judge Sam J. Ervin, III, Fourth Circuit  
 Judge W. Earl Britt, Eastern District of North Carolina  
 Chief Judge Henry A. Politz, Fifth Circuit  
 Chief Judge Morey L. Sear, Eastern District of Louisiana  
 Chief Judge Gilbert S. Merritt, Sixth Circuit  
 Chief Judge Thomas D. Lambros, Northern District of Ohio  
 Chief Judge Dominick L. DiCarlo, Court of International Trade  
 Chief Judge Richard A. Posner, Seventh Circuit  
 Chief Judge Barbara B. Crabb, Western District of Wisconsin  
 Chief Judge Richard S. Arnold, Eighth Circuit  
 Judge Donald E. O'Brien, Northern District of Iowa  
 Chief Judge J. Clifford Wallace, Ninth Circuit  
 Judge William Matthew Byrne, Jr., Central District of California  
 Chief Judge Monroe G. McKay, Tenth Circuit  
 Judge Richard P. Matsch, District of Colorado  
 Chief Judge Gerald B. Tjoflat, Eleventh Circuit  
 Judge William Terrell Hodges, Middle District of Florida  
 Chief Judge Abner J. Mikva, District of Columbia Circuit  
 Chief Judge John Garrett Penn, District of Columbia  
 Chief Judge Helen W. Nies, Federal Circuit  
 Conference Secretary: L. Ralph Mecham, Director, Administrative Office of the U.S. Courts

## JUDICIAL CONFERENCE COMMITTEES AND CHAIRMEN

Executive: John F. Gerry, U.S. District Court, District of New Jersey  
 Administrative Office: Thomas P. Jackson, U.S. District Court, District of Columbia  
 Automation and Technology: Rya W. Zobel, U.S. District Court, District of Massachusetts  
 Administration of the Bankruptcy System: Paul A. Magnuson, U.S. District Court, District of Minnesota  
 Budget: Richard S. Arnold, U.S. Court of Appeals, Eighth Circuit  
 Codes of Conduct: R. Lanier Anderson, U.S. Court of Appeals, Eleventh Circuit  
 Court Administration and Case Management: Ann C. Williams, U.S. District Court, Northern District of Illinois  
 Criminal Law: Maryanne T. Barry, U.S. District Court, District of New Jersey  
 Defender Services: Gustave Diamond, U.S. District Court, Western District of Pennsylvania  
 Federal-State Jurisdiction: Stanley Marcus, U.S. District Court, Southern District of Florida  
 Financial Disclosure: Frank J. Magill, U.S. Court of Appeals, Eighth Circuit  
 Intercircuit Assignments: Thomas F. Hogan, U.S. District Court, District of Columbia  
 International Judicial Relations: Chairman not yet named  
 Judicial Branch: Deanell R. Tacha, U.S. Court of Appeals, Tenth Circuit  
 Judicial Resources: Carolyn R. Dimmick, U.S. District Court, Western District of Washington  
 Long Range Planning: Otto R. Skopil, Jr., U.S. Court of Appeals, Ninth Circuit  
 Administration of the Magistrate Judges System: Philip M. Pro, U.S. District Court, District of Nevada  
 Circuit Council Conduct and Disability Orders: Levin H. Campbell, U.S. Court of Appeals, First Circuit  
 Rules of Practice and Procedure: Alicemarie H. Stotler, U.S. District Court, Central District of California  
 Appellate Rules: James K. Logan, U.S. Court of Appeals, Tenth Circuit  
 Bankruptcy Rules: Paul Mannes, U.S. Bankruptcy Court, District of Maryland  
 Civil Rules: Patrick E. Higginbotham, U.S. Court of Appeals, Fifth Circuit  
 Criminal Rules: D. Lowell Jensen, U.S. District Court, Northern District of California  
 Evidence Rules: Ralph K. Winter, U.S. Court of Appeals, Second Circuit  
 Security, Space and Facilities: Robert Broomfield, U.S. District Court, District of Arizona  
 Gender Based Violence (Ad Hoc): Stanley Marcus, U.S. District Court, Southern District of Florida

## JUDICIARY REFORM

The judiciary has demonstrated the value of conscientious reform over the last several years. In fact, many of the key themes in the Vice President's report, "Creating a Government that Works Better and Costs Less: Report of the National Performance Review," relate to areas the judiciary has addressed. That report recommends cutting red tape and regulations; streamlining the budget process; decentralizing decision-making power; decentralizing personnel policy; giving customers a voice; eliminating inefficient and unnecessary activities; and reengineering processes.

The judiciary has done much in these areas already with the substantial delegation of authorities to court managers, a new personnel system, technological innovations, civil justice reform efforts, and other initiatives, some of which are described here. Apart from national efforts, many individual courts are engaged in local initiatives to improve services and make better use of available resources despite burgeoning caseloads, added responsibilities, and tight budgets. The public expects and deserves the highest level of service. The judiciary is dedicated to delivering such service to the public.

Judicial branch reform has been accomplished in partnership with the Congress—through the leadership, encouragement and support of the House and Senate judiciary and appropriations committees. The General Accounting Office, the National Academy of Public Administration, and other respected organizations have contributed and will continue to contribute to the progress of reform.

*Restructuring the Judicial Conference of the United States*

In December 1986, Chief Justice Rehnquist appointed a nine-member committee under his leadership to study the operation of the Judicial Conference of the United States, the policy-making body for the judicial branch. After canvassing the views of judges throughout the country, the committee concluded that the Judicial Conference and its committees were fundamentally sound, but that certain structural and procedural revisions were necessary to enable the Conference (1) to operate more expeditiously; (2) to allow the Chief Justice to delegate some of his Conference duties; (3) to enable the committee structure to deal with budget and resource allocation matters more effectively; (4) to improve communication; and (5) to allow greater participation.

As a result, in 1987 the Judicial Conference took action to restructure itself. One of the key changes was to strengthen the role of the Executive Committee to act on behalf of the Conference between sessions on matters requiring emergency action and to review the reports and recommendations of the committees and develop a Conference agenda. Other changes were made to open up the process. The structure and jurisdiction of Conference committees, as well as membership terms, were revised to achieve a more active and effective committee system. That same year, Administrative Office Director L. Ralph Mecham established the Judicial Conference Secretariat to coordinate Administrative Office support to the Conference and its committees.

*Effecting Federal Courts Study Committee Recommendations*

In 1988, responding to mounting public and professional concern with the courts' expansion, delays, congestion, and expense, Congress took action on a judicial branch recommendation and created a statutory committee to conduct a 15-month study of the problems of the federal courts. The Chief Justice appointed two members of the Senate, two members of the House of Representatives, and eleven other distinguished individuals and judges to serve on this committee, the Federal Courts Study Committee. Its final report, issued in April 1990, presented well over 100 specific recommendations to the Congress, the federal courts, the executive branch, the state courts, and others. Congress and the judiciary have taken action on many of the committee's recommendations. These include the development of judicial impact statements for proposed legislation, the enhancement of the long range planning capability within the Judicial Conference, a study of Criminal Justice Act administration by an ad hoc committee, a study of allowable magistrate judge duties, and numerous training and education enhancements.

*Enhancing Long Range Planning*

Over the past several years, the judiciary has put in place successful long-range planning processes for automation and for facilities. The planning processes are managed by the Administrative Office under the leadership of the Judicial Conference Committee on Automation and Technology and the Committee on Security, Space and Facilities, and with participation throughout the judiciary.

The judiciary initiated the long range facilities planning process to bring needed discipline to determining the branch's facilities requirements. It applies a standard methodology to determining space needs, and is intended to assist the General Services Administration and the Congress by looking beyond the near term to provide a context within which future decisions can be made about facilities. The process was instituted to save costs and make the process more rational.

Similarly the long range plan for automation in the federal judiciary was instituted to form the framework for determining automation objectives so that the Congress could understand the long range requirements for technology in the federal courts and so that resources could be effectively channelled to meet the judiciary's most pressing needs.

One of the Federal Courts Study Committee's significant recommendations was that the judiciary should enhance its long-range planning capability. The Judicial Conference agreed, and in 1990 the Chief Justice created a new committee to focus exclusively on long-range planning. That committee is carefully examining every aspect of the judiciary, including its structure, its jurisdiction, and its operating methods. For example, proposals regarding the issue of capping the number of Article III judgeships have proven provocative and have stimulated debate within the judiciary about how it can best organize itself to deal with the increasing jurisdiction of the federal courts and the resulting rapid growth in workload.

The Long Range Planning Committee developed a process for involving all Conference committees in the long-range planning efforts. Work on the first long-range plan for the federal courts is ongoing, with a projected date of March 1995 for submission of a completed plan to the Judicial Conference.

Director Mechem established the Long Range Planning Office to provide staff support to the Committee. The Office recently published Judicial Branch Planning Guide, which provides interested judges and senior court staff a general introduction to the ideas, concepts, and policy issues associated with long-range planning in the federal judiciary. The Planning Handbook for the Federal Courts, containing details on how to proceed with planning efforts, will be published soon. The Federal Judicial Center's Planning and Technology Division has also made substantial contributions to the committee's work.

#### *Achieving Civil Justice Reform*

The Civil Justice Reform Act of 1990 has given the judiciary more leverage in its efforts to reform itself. Since the passage of the Act, a tremendous amount of activity has taken place under the direction of the Court Administration and Case Management Committee at the Administrative Office and the Federal Judicial Center, and especially in the courts. A model plan was developed that identifies procedures or techniques for cost and delay reduction. The model plan includes recommendations, in addition to those in the statute, that call for differentiated case management and alternative dispute resolution.

The civil justice reform advisory groups of lawyers and other court users in each district have demonstrated the value of customer input combined with analysis to enhance program performance by identifying ways to reduce delay and expense in civil litigation. All 94 districts expect to adopt Civil Justice Reform Act Expense and Delay Reduction Plans in time to meet the statutory deadline of December 1. A number of early implementation courts already have conducted the annual assessment of the effectiveness of their plans as required by the Act.

The RAND Corporation is under contract to evaluate the pilot districts' approaches and the effects of the reforms. The results of this study, and the Federal Judicial Center's evaluation of the statute's demonstration districts, will be major factors in determining the final approaches to implementing civil justice reform.

#### *Decentralizing Authority to Local Managers*

Several years ago, Director Mechem initiated a campaign to "decentralize, delegate and divest" to the courts themselves the exercise of many specific administrative responsibilities that Congress has vested in the Director of the Administrative Office. The ensuing progress in the achievement of decentralized decision-making has been remarkably effective. Decentralization efforts have provided local managers with more flexibility to apply resources and meet local needs more expeditiously. Court managers are in a better position to understand their unique needs and prioritize them than is the Administrative Office. So far, the Administrative Office has delegated authority in 54 specific management areas, the most significant being the full implementation of budget decentralization. A major landmark will be reached in fiscal year 1994 when all courts will be decentralized and will be able to shift most funds as needed to meet best their administrative requirements.

Decentralization has demonstrably improved service levels. For example, last year an evaluation was done to measure the success of decentralized processing of the payment of vouchers for court-appointed counsel under the Criminal Justice Act. Before decentralization, all vouchers were sent to the Administrative Office for pre-audit and processing, taking, on average, four weeks until payment. Since decentralization, vouchers are routinely processed in the courts in less than six days after a judge's approval.

Complementing the decentralization efforts, the Administrative Office has been working to train court personnel and improve its systems for administrative oversight and control without unnecessary regulation.

#### *Designing a Flexible Personnel System*

The judiciary is also ahead of the curve in personnel system simplification. With the help of extensive court input throughout the process and consistent with the recommendation of the National Academy of Public Administration, a new more flexible personnel system, the Court Personnel Management System, has been designed to replace the Judiciary Salary Plan. Upon recommendation of the Judicial Resources Committee, the Judicial Conference approved implementation to begin October 1994. The new system will cover all court personnel except chambers staff, court reporters, and unit executives and their chief deputies.

The new personnel system will allow management discretion in applying broad criteria to meet local needs fairly and effectively, within closely controlled cost limits. It will increase pay and classification flexibility, reduce the number of grades and broaden pay ranges, and simplify job qualification standards. Furthermore, the system will represent a shift in emphasis from a rule-driven system to a cost-driven one.

#### *Containing Costs*

Due to the judiciary's budget constraints and the anticipation of continued funding shortages in future years, the entire federal judiciary is focused upon holding down costs wherever possible. The judiciary will continue to confront difficult challenges in carrying out its responsibilities but is seriously committed to achieving economies wherever possible.

Judicial Conference committees and advisory groups of court managers and judges have been examining practices to identify alternative practices that may be more economical. A coordinated cost-containment effort is also underway, both in the courts and at the Administrative Office, to identify opportunities for making better use of limited available resources in both the short and long terms. Literally hundreds of cost-containment ideas, large and small, have come from judges and court staff nationwide. Good ideas are being shared through newsletters, correspondence, and reports. One such report compiled hundreds of ideas collected from probation and pretrial services offices around the country. With necessity as the mother of invention, many court managers already have implemented more efficient ways of doing business to accommodate staffing and funding cuts.

One key area of interest is cost containment in courthouse construction and renovation projects. The judiciary has taken a number of actions to work with the General Services Administration and the Congress in finding ways to economize and save tax dollars wherever possible. For example, the chairman and two members of the Judicial Conference Committee on Security, Space and Facilities are participating in an independent cost panel that includes representatives from the design and construction industry to address courthouse construction costs.

#### *Focusing on Fiscal Responsibility: New Economy Subcommittee*

On September 20, 1993, the Judicial Conference approved a proposal to establish a Subcommittee on Economy of the Conference's Budget Committee. This group of judges will coordinate the judiciary's efforts to achieve fiscal responsibility, accountability, and efficiency in its operations, and make recommendations to the full Budget Committee and the Judicial Conference.

#### *Improving Operational Efficiency*

In October 1992, Director Mecham established the District Court Efficiencies Task Force and selected as its members four district court judges and four district court clerks. The judges sit on Judicial Conference committees relating to budget, case management, judicial resources, and automation. In March 1993, the Director appointed additional members representing bankruptcy courts and probation and pretrial services offices.

The task force has defined its goal to identify and promote efficiencies, and urge their adoption in all courts in the interest of enhancing the delivery of justice by

maximizing productivity, and by eliminating or reducing unnecessary, redundant, or resource-wasting practices.

#### *Reaching Out for Advice*

Consistent with the idea that good government results from a service orientation rather than a control orientation, the Administrative Office established goals to focus on improving service and communication, and has made a number of improvements to enhance communication and participation in decision-making. Last year, to improve the quality of services provided to the courts, the Administrative Office reformed the process by which it obtains court advice. New guidelines were adopted reflecting suggestions received from throughout the judiciary, and new structures for advisory groups and automation user groups are in place. Most importantly, the new structures have ensured that each group is appropriately representative and has increased participation from a broader segment of court employees to advise the AO on matters of importance for judicial administration.

#### *Designing Technological Solutions to Operational Concerns*

A crucial factor in the courts' abilities to absorb tremendous workload growth in recent years has been the introduction of technology. Automated data processing has become an integral part of the day-to-day accomplishment of the work in the courts. A family of case management systems is available to the appellate, district, and bankruptcy courts to handle the processing of cases more efficiently. Public Access to Court Electronic Records (PACER) or similar public access systems are operating in a large number of courts, facilitating easy access by the public to court records. Computer Assisted Legal Research capabilities are extensively used by judges and their law clerks. A system for the electronic dissemination of opinions is now operational in several appellate courts.

These practical applications have resulted in improved service to the courts, the bar and the public. Other potentially worthwhile systems are under development and testing. One example is an experimental system in several bankruptcy courts to replace paper claims with electronic claims. Storing and retrieving documents electronically rather than on paper offers benefits such as reduced storage space, fast retrieval, searching for documents based upon their contents, and simultaneous viewing of a document by more than one person.

The development of useful and effective systems applications for the courts has been enhanced through a commitment to a user-driven approach. In late 1992, after extensive court input and discussion, the Administrative Office developed a new structure and process for extensive user input in defining automation requirements and monitoring development and implementation of systems applications. User groups, "umbrella" groups covering major program areas, and an Automation Planning Council have been established to make recommendations concerning the judiciary's automation needs and the priority of these needs within budget restraints.

This extraordinary process of user involvement means that the courts are true partners with the Administrative Office in moving forward to bring technological solutions to federal court operations. Also, new methods for developing and managing automated systems and applications have been implemented to bring needed discipline to this complex area.

One of the joint Administrative Office/court users groups is working to identify proposed methods that may streamline court operations as part of the effort to develop and apply automation tools. The group is applying methods and tools that have been used by industry and other government agencies. This "reengineering" approach has the potential to lead to greater economy and efficiency in the courts' operations.

#### *Improving Management Information*

Any efforts to devise reform in the judiciary must be founded on accurate financial and other information. For several years the Administrative Office has been working diligently to improve and modernize its basic administrative, financial, and management systems and processes. Improved information systems will provide managers information needed to monitor and control program costs, assess performance, and plan for the future.

#### *Promoting Effective Management Through Continuing Education*

Education helps courts do more with less, and do it better. Federal Judicial Center education programs and monographs cover the legal and management skills that judges and court personnel need to do their jobs. Increasingly its programs emphasize efficiency and attention to the courts' users. The Center's curriculum packages that courts use in local training include courses on "Maximizing Staff Productivity" and "Customer Service in the Federal Courts." The theme of next April's overlap-

ping conference of chief district judges, clerks of court, and chief deputies is effective management in an era of scarcity. A recent Center workshop for judges and jury managers cost about \$50,000 but helped the 13 participating courts save \$380,000 in juror fees.

The Center itself is doing more with less. It provided education to more judges and more supporting personnel in fiscal 1993 than in 1992 despite a cut in appropriations. And the Center is developing inter-active multi-media educational programs for even more cost-effective education for all parts of the judiciary.

#### *Aiding Evaluation and Policy Choices with Research*

Federal Judicial Center research provides Conference committees and individual courts with information for effective policy development and resource allocations. Time studies provide the data and analysis for informed judgments about additional judgeship needs. Evaluations of appellate preargument conferencing plans and district court alternative case management methods help judges know what works and what does not. A new risk prediction device will help probation officers determine the proper level of offender supervision. A science and technology manual will help judges manage complex litigation more effectively and thus economically.

The Center's statutorily mandated study of alternative structures for the courts of appeals will help the Judicial Conference and the Congress weigh the costs and benefits of numerous proposals for structural and procedural changes to the appellate courts.

#### *Reform Will Continue*

In summary, the judiciary has been engaged in the process of creating a judiciary that works better for some time. A wide range of activities are currently underway; more will be undertaken in the future—by the Judicial Conference and its committees, by the Administrative Office and the Federal Judicial Center, by the circuit judicial councils, and especially in the courts themselves since they are the laboratories of change and innovation in the frontlines of justice.

In concert with the legislative and executive branches, and with their support, the judiciary will continue to work toward the common goal of making government work better. The Third Branch is strongly committed to fulfilling its critical mission, thereby deserving the respect of the citizens.

A message to Judges and Court Executives: In order to develop a complete picture of the judiciary's reform efforts, we are very interested in hearing about other initiatives and local innovations. Please let us know about court improvement efforts by contacting:

Cathy A. McCarthy, Management Coordination Officer (202) 273-1150

Clarence A. Lee, Jr., Associate Director for Management and Operations (202) 273-3015

Administrative Office of the U.S. Courts, Washington, D.C. 20544

#### STATEMENT OF L. RALPH MECHAM

Mr. Chairman and Members of the Subcommittee: Thank you for the opportunity to appear for the ninth time before the Subcommittee and present the Administrative Office of the U.S. Courts' (AO) fiscal year 1995 budget request. I would like to start by thanking all the members of the Subcommittee for your help and support on our fiscal year 1994 appropriation. This fiscal year is a difficult one for us. The AO actually received a 0.4 percent reduction this year from the level appropriated to us in fiscal year 1993, in contrast to the much-needed 8 percent increase for the Judiciary overall. This has come at a time when the need for strong management is greater than ever, as the Judiciary does its utmost to carry out its mission in the most efficient way possible. Your recognition of the AO as a key component of a strong judicial system is greatly appreciated, and your efforts on our behalf are vital to our success.

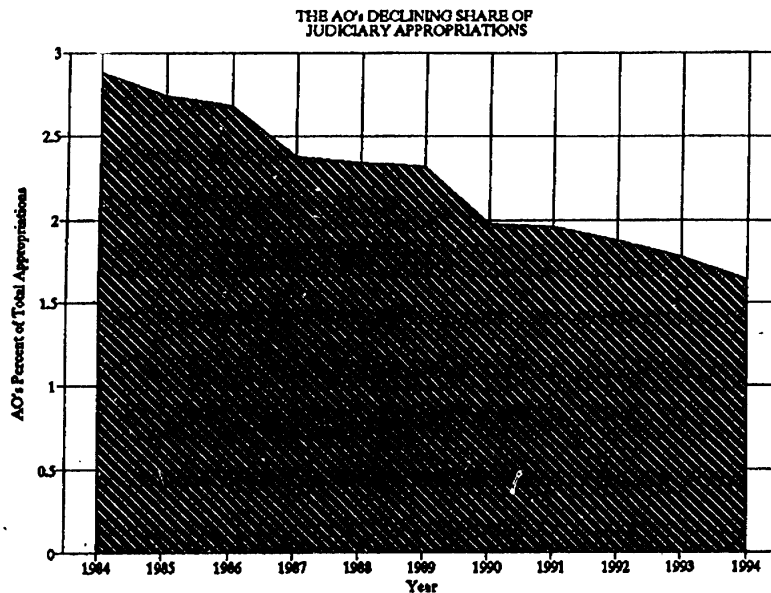
The AO is a unique agency, unlike any other in either the Executive or Legislative branch. We exist to help the federal courts deliver the highest quality of justice possible to this country. Decades ago, we accomplished this primarily by providing basic administrative support. But, as the Judiciary's responsibilities and requirements have grown and changed over the years, the AO has evolved accordingly. Our responsibilities now also include complex legal, policy, program, planning, management, and analytical support. We aid the Judicial Conference of the United States in its efforts to establish policies for the federal judicial system, help produce rules that govern procedure and practice in the federal courts, and lead Judiciary-wide efforts to improve the delivery of services and programs. Ultimately, we facilitate the protection of constitutional rights. Let me briefly describe the varied responsibil-

ities facing the AO today, several reform efforts currently underway to improve the efficiency and effectiveness of the judicial system, and our needs for fiscal year 1995.

#### THE AO TODAY

The AO was created in 1939 primarily to provide support in the areas of personnel and payroll, procurement, facilities management, budget and accounting, and statistics collection and reporting. Today, in addition to these basic services, the AO provides staff support and legal counsel to the Judicial Conference and its 26 committees; supports nearly 1,500 appellate, district, bankruptcy, and magistrate judges; provides program direction and management assistance for clerks' offices, probation and pretrial services, court reporting and interpreting services, libraries, and defender services; examines and coordinates issues of common concern among the Judiciary, the Congress, and the Executive Branch; provides advice and assistance on equal employment opportunity; conducts evaluations of Judiciary operations; develops impact analyses of proposed legislation and Executive Branch policy changes on the Judiciary; develops, delivers and manages the Judiciary's automation services; and provides training for court personnel in program and administrative areas.

As the AO's workload has grown, our share of the Judiciary's resources has declined steadily. In 1984, the AO's appropriation represented 2.9 percent of the Judiciary's appropriation. Ten years later, our appropriation represents only 1.6 percent, a 44 percent drop.



Consequently, providing effectively our wide variety of services is quite challenging as our workload increases and our resources decrease. To fulfill our responsibilities, we must continually stretch our resources to the absolute limit. Several of our activities are described briefly below.

**Administrative Services.**—The AO's basic administrative services support the needs of judges and other court employees in over 800 locations nationwide. This work goes on largely behind-the-scenes, but it is extremely vital to the Judiciary's continuing operations. The following statistics help demonstrate the tremendous workload we handle. In 1993, the AO: made 247,000 payroll changes; processed 2.9 million statistical reports; handled more than 18,000 phone calls for automation assistance and tens of thousands of information requests from members of the judiciary, Congress, other government agencies, law firms, and the general public; issued

82,000 checks and paid 52,000 invoices to vendors, contractors, and others; entered data from 200,000 vouchers into the central accounting system from courts without automated financial systems; processed 1,440 documents for buying automation equipment and services and over 700 orders for federal telephone systems; and issued 436 delivery orders and awarded nearly 200 contracts.

Providing these core services is essential to furthering the accomplishment of the courts' critical mission.

*Automation and Technology.*—A sound automation system is essential to effective and efficient court operations. One of the AO's main tasks is to work closely with the courts and the Judicial Conference's Automation and Technology Committee to ensure that the appropriate systems and services are in place and properly meet the courts' needs. The following describes briefly some of the many initiatives underway.

The AO continues efforts to enhance several existing case management and tracking software systems and to assist certain courts in becoming operational on these systems. Court executives and user groups have prioritized requirements for many additional functions that would improve the productivity of docket clerks, law clerks, and others. The AO responds to these needs with fully-tested software improvements. For example, the AO is addressing needed enhancements in the appellate, district and bankruptcy case management and tracking systems that are critical to the courts' mission. In addition, the AO is assisting 19 district courts in becoming operational on the criminal system, and 30 probation and pretrial services offices on their case tracking system, known as PACTS, in calendar year 1994. These rates are dependent on the continued availability of funding and can be accelerated should additional funding become available.

The AO is working with court managers on replacing the courts' existing financial, payroll/personnel, and jury selection systems. These old, first generation automation systems, in place for many years, no longer meet court managers' needs. Modern systems are needed to enable court managers to profit from exciting initiatives underway to decentralize budgeting and personnel activities to the courts. To develop, deploy, and maintain these new systems, the AO initiated several complex, multi-year projects that depend on the continued availability of funding. The AO is committed to these efforts and is already making significant progress.

These and other planned automation efforts are critical for ensuring that an effective automation infrastructure is available to the courts to help them carry out their crucial responsibilities.

*Support for Judges.*—Supporting the needs of judges is one of the highest priorities for all AO employees. Our many responsibilities include conducting orientation programs for new chief judges and administering judges' retirement and survivors' annuities trust funds. In 1993, the AO enhanced the chief judge orientation program and published and distributed a booklet on retirement benefits for bankruptcy and magistrate judges which describes various options open to these judges and their families. A second booklet on senior status and retirement for Article III judges will soon be distributed.

*Human Resource Management.*—People are the Judiciary's main resource. A high priority mission of the AO is to provide both management and administrative support to the courts in the human resources area, and to provide staff support for the Judicial Conference's Judicial Resources Committee. Providing training, determining appropriate staffing requirements, eliminating staffing disparities, and implementing a new personnel system are but a few of the areas in which the AO is involved.

The AO offers a variety of training programs for court employees nationwide. In 1993, the AO led over 50 seminars, workshops, technical courses, and conferences. In addition, 30 training and development sessions were held for AO staff. These included a broad-based national automation education and training program to ensure that court employees obtain the knowledge and skills they need to ensure that they can use the national software systems developed by the AO to maximum advantage. In addition, 30 training and development sessions were held for AO staff to ensure that they, as providers of service, have the knowledge and skills they need to service adequately the needs of the courts.

Court staffing requirements are allocated based on workload measurement formulas, which need revision from time to time. The AO is responsible for these updates, working in conjunction with court representatives and Judicial Conference committees. Work measurement formulas for probation and pretrial services offices were updated in 1991, and for district court clerks' offices in 1992. In 1993, a new formula for bankruptcy clerks' offices was approved by the Executive Committee of the Judicial Conference.

Due primarily to the drop in bankruptcy filings over the past year, staffing disparities have developed from court to court. The AO has worked closely with court representatives to develop a plan for eliminating these differences by redistributing employees among courts nationwide. The Executive Committee of the Judicial Conference approved this staffing equalization plan in mid-December and a report was submitted to the Congress on January 31, 1994, as requested in the Conference Report on the Judiciary's fiscal year 1994 appropriation. This highly innovative initiative has allowed the courts to request a smaller 1995 funding increase and lower overall staffing level than otherwise would have been possible. The AO is playing a major role in assisting courts nationwide with implementing the plan and guiding the process to ensure its success.

In 1993, the AO concluded a four-year review of the courts' personnel classification and pay system. With extensive participation from court representatives and assistance from the National Academy of Public Administration, an improved Court Personnel Management System was designed to replace the current system. The new system increases classification flexibility, reduces the number of grades and broadens salary ranges, and simplifies job qualification standards. Court managers will have greater decision-making authority in personnel matters, which will enable them to achieve greater efficiency. Implementation of the system is scheduled to begin in October 1994.

*Specialized Support.*—Much of the AO's time is devoted to management support initiatives at the request of the courts or Judicial Conference program committees. Examples of projects include designs and reviews of new automation system installations, as well as broader management reviews and evaluations of clerks' offices and probation and pretrial services offices. In 1993, Chief Judges in the District of Puerto Rico and the Central District of California asked the AO to conduct comprehensive studies of their courts' operations. The AO identified opportunities for improvement and recommended changes that will increase efficiency and effectiveness.

Financial auditing is another important area of support. The AO conducts cyclical audits of circuit executive offices, staff attorney offices, circuit librarian offices, defender services offices, probation and pretrial services offices, and clerks' offices in the appellate, district, and bankruptcy courts.

*Court Security and Defender Services.*—Ensuring that federal courthouses are safe and secure for members of the Judiciary and the general public continues to be one of the AO's important priorities. The AO is working with the U.S. Marshals Service, which furnishes the courts' security services, to examine ways of better providing services given limited resource levels. In addition, funding to support a total of six reimbursable positions in the AO's Court Security Office is included in the Judiciary's 1995 budget request for the Court Security appropriation. This will allow the AO to provide greater oversight of the court security program. Recent reviews conducted by the AO and the National Academy of Public Administration have recommended that the Judiciary become more involved in managing court security resources. A General Accounting Office study, currently being finalized, is also expected to make this recommendation.

Regarding the Defender Services program, recent and dramatic increases in the costs of providing Constitutionally-mandated representation for indigent criminal defendants have focussed attention on the need to carefully examine expenditures associated with these services, as provided by both private attorneys and defender organizations. Recognizing this critical need, the Judiciary sought and received Congressional authorization to use funds included in the Defender Services appropriation to support nine reimbursable positions in the AO's Defender Services Division. These positions will be devoted primarily to the analysis and review of the activities of panel attorneys and federal defender organizations, including death penalty resource centers, to ensure the cost effectiveness and proper operation of these components of the federal defender program.

The support the AO provides in managing resources for the Defenders Services and Court Security programs is essential to ensuring that the Judiciary's scarce resources are put to the best possible use.

*Probation and Pretrial Services.*—The AO provides substantial support to the Judiciary's probation and pretrial services offices. We manage over 1,000 contracts that are critical to the adequate monitoring of the more than 45,000 offenders under the Judiciary's supervision. These include contracts for urinalysis testing, substance abuse treatment, mental health treatment, and electronic monitoring. The proper management of the services provided under these contracts is vital to ensuring that offenders at liberty in the community do not threaten public safety.

## JUDICIARY REFORM

In addition to providing day-to-day administrative, program, and management support, the AO supports the Judiciary's broader and longer term efforts for streamlining operations, cutting costs, and generally improving the way the Judiciary conducts business. For the past several years, the Judiciary has been focussing on numerous reforms, many of which relate to themes discussed in the Vice President's recent National Performance Review. Let me briefly describe some of these initiatives.

*Long-Range Planning.*—Long range planning is a high priority for the Judiciary. The Judicial Conference's Committee on Long Range Planning is examining the Judiciary's structure, jurisdiction, and operations. It is a follow-on to the Congressionally-created Federal Court Study Committee. The AO provides the staff support and analyses the Committee needs to fulfill its mission. In 1993, the AO completed several studies, including an analysis of the impact of eliminating diversity jurisdiction and an analysis of the demographic attributes of the judicial workforce with a projection of circuit and district workload and resource requirements through the year 2020. These efforts are crucial for ensuring that the Judiciary is prepared properly for the needs and demands of tomorrow.

*Cost Containment.*—The entire Judiciary is involved in an intense, continuous cost containment effort. Hundreds of cost cutting suggestions so far have been sent to the AO from judges, managers, and staff nationwide. The AO acts as a clearing-house for these ideas, evaluating those with potential and ensuring that worthwhile ones are shared with all members of the Judiciary family.

The AO also provides staff support to the Budget Committee's new Subcommittee on Economy, created by the Judicial Conference of the United States in September 1993 to promote greater fiscal responsibility, accountability, and efficiency in the Judiciary. The AO will conduct the analyses and provide the information needed for the Subcommittee to fulfill its mandate. The AO's role will be to ensure that all Judiciary programs are carefully and consistently examined, annual budget requests reflect the conclusions reached in these program studies, and resources are managed as productively as possible. This work will be essential to the Judiciary's ability to cope with the funding shortages we have all been experiencing in recent years, and will continue facing in the future.

*Communication with the Courts.*—Effective communication between and among the AO and the courts is crucial for a sound Judiciary. Facilitating productive communication is a high priority for the AO. One means of accomplishing this is a formal advisory group network to address issues of common concern and interest. For example, the Court Administration Advisory Council played a key role in the development of the staffing equalization plan I discussed earlier. This council is comprised of members from circuit, district, and bankruptcy court advisory groups who consider issues pertinent to their specific areas. As another example, the AO has established an Automation Planning Council, comprised of court and AO representatives, for making recommendations concerning the courts' automation policies.

Books, manuals, pamphlets, newsletters, and other documents that the AO routinely produces and distributes on a variety of topics are another important means of communication. The AO strives continuously to enhance the usefulness and quality of these publications. The Third Branch, which provides information on legislative, fiscal, and other issues facing the Judiciary, won a national award for excellence in government newsletters.

During these tight fiscal times, effective communication takes on a new importance, as it allows many productive ideas for reducing costs and increasing efficiency to be shared among the Judiciary's elements.

## FISCAL YEAR 1995 BUDGET REQUEST

Despite shrinking resources, the AO strives to serve the Judiciary as best it can. However, resources can only be stretched so far, and the AO has passed the breaking point. Our ability to continue providing quality services and programs requires additional resources.

The AO's fiscal year 1995 budget request totals \$48,804,000, an increase of \$3,904,000 over fiscal year 1994. Nearly three-fourths of this increase (\$2,834,000) is needed to fund inflation, pay and benefit cost adjustments, and other items required to maintain current activity levels. Of that, \$1,938,000 is needed to offset an expected decrease in fee income. Without restoration of this funding through appropriations, we would be forced to reduce current employment by 30 full-time equivalents; more than 30 positions would have to be cut to realize these savings. This would have a catastrophic effect on our ability to support court operations.

The remaining increase (\$1,070,000) is requested to fill sixteen of our forty-one vacant positions. It is critical that we fill these vacancies. For two years we have been under a hiring freeze and have been unable to fill numerous vacant positions because of insufficient funding, despite increases in workload. As a result, many key areas are severely understaffed.

We fully appreciate the competing demands on the Federal budget and would not be requesting this increase if our situation were not so dire. Indeed, we ask only for a small increase to meet our most critical needs. We request no new positions—only resources to fill vacant positions we already have. Without additional funding, we simply will not be able to provide the level and quality of service and support the courts and the Judicial Conference need and deserve.

Although we are a small agency, we have a big job to do. We are all committed to doing the absolute best job we can and using our limited resources as productively as possible. I appreciate the opportunity to appear before you, and I thank you for your time and efforts. This concludes my presentation today.

#### STATEMENT OF WILLIAM W SCHWARZER, DIRECTOR, FEDERAL JUDICIAL CENTER

Mr. Chairman and members of the Subcommittee. My name is William W Schwarzer. I am the Director of the Federal Judicial Center, the federal courts' agency for research, planning, and education and training. Prior to coming to Washington to assume that position, I served as a United States District Judge for the Northern District of California for fourteen years.

I wish to express the Center's appreciation for the support the Subcommittee has given over the years, and for the opportunity to submit this statement, which summarizes the Center's fiscal 1995 appropriation request and the supporting information. The Center will be pleased to respond to any questions you or members of the Subcommittee might want to put to us as you consider our request.

#### THE FEDERAL JUDICIAL CENTER

Congress created the Center in 1967 "to further the development and adoption of improved judicial administration in the courts of the United States" (28 U.S.C. § 620(a)). The Center's Board is chaired by the Chief Justice and includes six judges elected by the Judicial Conference, as well as the director of the Administrative Office. At its September 1993 meeting, the Board carefully considered and unanimously approved this fiscal 1995 appropriation request, including a 7 percent increase over the fiscal 1994 appropriation.

The Center performs a number of tasks to carry out its statutory mission of improving the administration of justice in the federal courts. The most important of these is education and training. The Center provides a variety of education and training programs to meet the needs of some 1,700 federal judges and some 26,000 supporting personnel. These programs are tailored to the requirements of the federal courts and are available from no other source. They are critical to maintaining the courts' ability to serve the public effectively and efficiently in a time of declining resources. Chief Justice Rehnquist said in his recent Year-End Report on the Federal Judiciary, that "[e]ducation and training \* \* \* help courts do more with less, and do it better. Federal Judicial Center programs and monographs augment the legal and management skills that judges and court personnel need to do their jobs well. Increasingly, the Center's programs emphasize efficiency and attention to the courts' users."

Beginning in the current fiscal year, and through all of the next, an unprecedented number of new judges and probation and pretrial services officers will be entering the system. The Clinton Administration entered office with slightly over 100 district and circuit judge vacancies to fill, but retirements during the year created about as many vacancies as were filled. Thus, there are still over 100 vacancies to be filled, and new vacancies due to retirement will accrue at a rate of approximately 6 per month. Even if many of these vacancies will be filled in fiscal 1994, many of the appointees will be slated for Center orientation programs in fiscal 1995. In fiscal 1995, the pace of vacancy creation will continue, creating more judges who need orientation. Added to the new district and circuit judges are numerous bankruptcy and magistrate judge positions, created by more retirements than usual. As a result the number of new judges requiring orientation will be nearly twice the normal rate. In addition, due to retirements and creation of new positions, twice the normal number of probation and pretrial services officers will be entering into service next year. All of these judges and officers require orientation by the Center to perform the complex and highly technical responsibilities of their new positions, as well as continuing education throughout their careers. Orientation is an essential task, and the

Center will meet it, but, as explained below, it no longer has the resources to do that and meet other important obligations.

The Center's other important task is to conduct research on federal court operations. Requests come from Congress, committees of the Judicial Conference, and specific courts. They are driven largely by the constant increase in the business of the federal courts, the steady expansion by Congress of federal jurisdiction, and the growing complexity of federal litigation. Among the major projects conducted by the Center are these:

- A comprehensive analysis of structural and procedural alternatives for the courts of appeals to help Congress and the Judicial Conference assess their feasibility, costs and benefits.
- Analyses of alternatives to present sentencing schemes and of possible revisions of the sentencing guidelines.
- Support for courts in implementing the Civil Justice Reform Act of 1990.
- Study of and reports to Congress on court-annexed arbitration.
- Procedures for enhancing coordination and cooperation among state and federal court systems, including improved ways of managing mass tort litigation.
- Support for the courts' long-range planning process by the preparation of a series of monographs re-examining the traditional ways in which courts do business.

The Center performs these and other functions with a full time equivalent staff of 158 working in six divisions and two smaller offices.

#### BUDGET COORDINATION WITHIN THE JUDICIAL BRANCH

The Center develops its appropriation requests in consultation with the Judicial Conference Budget Committee and the Administrative Office. That consultation led to the joint request of the Judicial Conference and the Center for the budget-neutral transfer of \$505,000 from the Center to the court's Salaries and Expenses account, described below. Additionally, the Center operates under an interagency agreement with the Administrative Office that identifies the training missions of both agencies and ensures that the Center, as the courts' primary education agency, will be available to provide curriculum development and other education services to the Administrative Office, thus saving costs and avoiding duplication of effort. A similar agreement with the United States Sentencing Commission concerns sentencing training.

#### FISCAL 1995 REQUEST SUMMARIZED

We appreciate Congress's—and this Subcommittee's—long-standing support for and confidence in the Center. While we might have wished for appropriations in the last two years that would have maintained the Center's budget in real dollars, we are well aware of the demand for austerity under which the appropriations process must operate. We make this request for an increase only after the most careful consideration and because of the special circumstances that the Center will confront in fiscal 1995.

We also appreciate having been authorized to obligate a portion of our 1994 appropriation, \$1.8 million, for fiscal 1995 education programs. This authority will help the Center make more effective use of its fiscal 1994 appropriation, and we ask that the same authority be provided with respect to our fiscal 1995 appropriation.

With regard to the two-year authority, it is important that I point out that the demands on the Center are such that we obligate our entire appropriation during the year we receive it. Thus, we will not carry forward into fiscal 1995 (as an unobligated balance) any of that \$1.8 million in fiscal 1994 funds that Congress authorized the Center to obligate in fiscal 1995. This authority, however, does make our budgeting more efficient and effective, because it lets us apply funds de-obligated late in the fiscal year to programs we can then schedule for the first few months of the next fiscal year. In the past, we either lost the use of such funds completely or were restricted (by the September 30th spending authority cut-off) in the uses to which to apply them.

Since fiscal 1992, the Center's appropriation has declined from \$18,895,000 to \$18,450,000—or \$445,000. In terms of actual spending power, however, the reduction has been close to \$2 million. The chart below shows the erosion in the Center's

resources since fiscal 1992 as well as the modest recovery the fiscal 1995 request would provide.

Fiscal year	FJC appropriation	Reduction from fiscal year 1992 appropriation (adjusted for uncontrollable increases) (percent)
1992 .....	\$18,895,000	
1993 .....	18,600,000	- 7.2
1994 .....	18,450,000	- 9.5
1995 (request) .....	19,739,000	- 2.3

We are requesting a fiscal 1995 appropriation of \$19,739,000, 7 percent over the fiscal 1994 appropriation, and 4.5 percent over the fiscal 1992 appropriation. After adjusting for the uncontrollable increases that the Center has had to absorb over the last two years, however, the requested fiscal 1995 appropriation is still more than 2 percent below the Center's fiscal 1992 spending level.

The Center's fiscal 1995 appropriation of \$19,739,000 consists of the following elements:

Fiscal 1994 appropriation .....	\$18,450
Budget-neutral transfer from the Center's base to the courts' salaries and expenses base to pay costs associated with the lease and operations and maintenance of the Thurgood Marshall Federal Judiciary Building. (see below) .....	(505)
Fiscal 1994 base for calculating adjustments .....	17,945
Fiscal 1995 adjustments to base (see below) .....	883
Additional funds required to provide orientation and continuing education and training to federal judges and court personnel. (see below) .....	911
Fiscal 1995 request (7 percent over fiscal 1994 appropriation) .....	19,739

The following provides additional information on items above.

**Budget-neutral transfer to courts' budget.**—Pursuant to the Judicial Conference's action last September to include the Thurgood Marshall Federal Judiciary Building in the courts' salaries and expense appropriation for the lease, operations, and maintenance costs of all judiciary buildings, the Center seeks to transfer to that account the \$505,000 in its base budget used to pay its share of such costs.

**Fiscal 1994 adjustments to base.**—Just under 50 percent of the requested increase for fiscal 1995 is to provide for inflationary increases and other uncontrollable cost adjustments, calculated according to standard factors provided by the Administrative Office of the U. S. Courts.

**Additional funds required to provide orientation and continuing education and training to federal court personnel.**—Of the \$911,000 requested above base adjustments, \$844,000 will help meet the cost of travel and subsistence of new judges and new probation and pretrial services officers to attend Center orientation programs for them. Without this increase, orientation costs will require us to go even deeper into our base, which, as noted above, has been reduced over the past two years. In fiscal 1995, the Center expects to provide orientation for approximately 250 newly-appointed circuit, district, bankruptcy and magistrate judges, which is approximately twice as many as the average number for which it has provided orientation annually over the past five years. In fiscal 1995, about 700 new probation and pretrial services officers will need orientation, twice the average annual number over the past five years. Moreover, more new officers and judges increase the total complement of almost 28,000 court personnel to whom the Center must provide on-going training and skill development programs.

Judges participate in small groups in a five day program immediately following their appointment and in a larger five day second-phase orientation within twelve months of appointment. Probation and pretrial services officers attend a nine-day orientation session. The demands of operating these programs for such numbers of new personnel and still meeting all other demands we face are beyond the present capacity of the Center's staff; \$67,000 will provide the compensation and related benefits for one additional full time equivalent professional staff member.

Many other needs face the Center above and beyond those created (not only for orientation but also for continuing education) by the substantial increases in new judges and new probation and pretrial services officers. Those needs include additional research and education on sentencing, training to improve the skills of senior court managers, and leadership development for mid-level managers. The funding in the Center's base budget is inadequate for the needs that must be met to improve the administration of justice in the federal courts. This request meets only those that are most pressing.

For some time now the Center has pursued programs and policies to stretch its resources, through the use of more economical ways of delivering training, the application of new technologies to provide cost-effective training, internal staff and operational adjustments and reallocations, and other economies. Some of the steps the Center has taken to make the best use of its funds are described in the Appendix to this statement. In the aggregate these steps have had significant effects. For example, in fiscal 1993 the Center was able to provide 7,425 "judge days" of education, 38 percent more than in fiscal 1992, while cost per judge day declined from \$347 to \$280. Over 23,000 support personnel received training in fiscal 1993, up from 21,474 in fiscal 1992, but at a cost almost \$300,000 less than in fiscal 1992.

#### CONCLUSION

The Center operates on an extremely tight budget. Because it practices rigorous cost control and stresses efficiency, it is able to deliver a large volume of services at very low cost. Consequently, even a small reduction in its appropriation could have a severe impact—not only on its programs but also on its ability to maintain its staff which represents a substantial investment and a valuable asset to the federal courts. The education and research the Center provides enable the courts to enhance their productivity as they are faced with a growing volume of work and declining resources. The funds requested for these activities amount to less than one percent of the judiciary's budget (0.6 percent), an historic low.

I am grateful for your support and look forward to the opportunity to respond to any questions you may have about our fiscal 1995 request.

#### APPENDIX—EFFORTS TO REDUCE CENTER COSTS AND INCREASE COST-EFFECTIVENESS

Some of the ways in which the Center controls and reduces expenditures to provide increased services include the following:

- Supplying Center-prepared "package training programs" to court units for presentation by Center-trained court staff to employees at their place of work—greatly reducing travel.

- Applying advanced educational technology, including interactive computer-based programs with video components, to provide effective on site skill development training (for example, the Center will shortly release an interactive computer program that deputy clerks can use, at their desks, to learn the Federal Rules of Civil Procedure).

- Through the recently-granted two-year spending authority for \$1.8 million, reducing the amount of staff time and effort required for year-end close-outs and procurements.

- Promoting use of GSA "generic" brands and bulk purchases and competitive bidding for non-GSA purchases under \$2,500.

- Purchasing rather than renting copiers; standardizing copying and fax machine purchases to take advantage of volume discounts of supplies; encouraging two-sided copying; programming copiers to avoid unnecessary multiple copying; returning toner cartridges to manufacturers for reuse and rebate; and erasing and reusing thousands of floppy discs made obsolete by software updates.

- Using electronic mail for staff announcements to avoid paper and copy expenses.

- Using UNICOR (Federal Prison Industries) to refinish or reupholster existing furniture; consolidating calls for furniture and equipment repair to reduce costs; making furniture swaps with the other agencies in the building; discontinuing maintenance contracts (e.g., for telephones and telecommunications equipment, computers, laser printers) and relying on the skill and technical knowledge of FJC staff.

- Using metering systems and training staff to ship materials at lowest cost.

- Abandoning traditional 3-ring binders for seminar materials in favor of in-house binding, saving money in both material and in shipping costs.

STATEMENT OF HELEN WILSON NIES, CHIEF JUDGE, U.S. COURT OF APPEALS FOR THE  
FEDERAL CIRCUIT

Mr. Chairman, I am pleased to submit my statement to the Committee for the fiscal year 1995 budget estimate.

The amount of our 1995 budget request totals \$14,638,000. This is an increase of \$1,738,000 over the 1994 budget figure of \$12,900,000.

MANDATORY INCREASES

Our fiscal year 1995 increases in mandatory items, over which the court has no control, total \$526,000. The mandatory increases include:

- \$22,000 for the proposed January 1995 pay increases of 1.6 percent for judges. The funds requested are for the nine months of fiscal year 1995.
- \$6,000 to cover an increase of 15 percent in January 1994 and an additional 14 percent in January 1995 in government costs of health benefit contributions for judges. The increase includes the annualized cost of the amount included in the fiscal year 1994 budget and a nine-month provision for the 1995 increase.
- \$3,000 to cover the increase in FICA for judicial officers. The salary cap on which the FICA rate is calculated will increase to \$61,500 for Old Age, Survivor and Disability Insurance and for Medicare. The amount requested will fund the court's portion.
- \$60,000 for annualization of 4.23 percent locality pay received by eligible Federal works in the Washington, D.C. geographic area in January 1994.
- \$75,000 for expected 1.6 percent pay increase for federal employees effective the first pay period beginning on or after January 1, 1995. These funds provide the cost of nine months of the pay increase in fiscal year 1995 for court personnel.
- \$182,000 for cost of within-grade and other salary advancements.
- A decrease of \$17,000 due to one less compensable day in fiscal year 1995 than in fiscal year 1994.
- \$27,000 to cover a 15 percent increase in January 1994 and an additional 14 percent increase in January 1995 of health benefit premium rates for federal employees. This increase includes the annualized cost of the amount included in the fiscal year 1994 budget and a nine-month provision for the 1995 increase.
- \$2,000 to provide for the increase in employer contributions to the Old Age, Survivor, and Disability Insurance portion of the FICA tax in fiscal year 1995. The increase represents the estimated additional tax paid by the court.
- \$56,000 to cover an increase in the court's contributions to the Federal Employees Retirement System (FERS). The increase will provide the court's contributions to the FERS retirement benefits, matching Thrift Savings Plan and FICA.
- \$126,000 for annualization of the 4 new staff attorney and clerical positions provided in fiscal year 1994. Funding was provided in the fiscal year 1994 base for 6 months to support partial year costs. This amount will annualize the cost for 6 months of salaries, benefits, and supporting costs for these positions.
- A reduction of \$50,000 from the base due to funds provided in fiscal year 1994 for the 4 new positions for nonrecurring start-up costs.
- A reduction of \$72,000 and 2 positions from the fiscal year 1995 base. One of the court's Senior Judges is currently not certified to maintain a staff of one secretary and one law clerk.
- \$51,000 for increases in charges for services, supplies and equipment, travel and contract rates. With the exception of lawbooks and printing, this projection is based on anticipated increases in expenditures of 2.6 percent. Lawbooks are projected to increase at 13 percent for continuations and printing at 3 percent.
- \$55,000 for a mandatory increase in rental payments to GSA. The estimated increase in rental rates for space occupied by the Court of Appeals for the Federal Circuit will increase by 2.5 percent for fiscal year 1995. However, GSA reduced the cost per square foot for the court's office space in the middle of fiscal year 1993. Because of that decrease in rent, we are unable to absorb the cost of the additional space in fiscal year 1994 and have sufficient funds in our base to pay a portion of the fiscal year 1995 increase. The \$55,000 requested reflects the difference between funds available in our base for rent and the estimated fiscal year 1995 space rental costs.

PROGRAM CHANGES AND REQUESTS

*Personnel Requests.*—The court is requesting the addition of 19 staff positions and related funding totalling \$1,195,000. (An actual increase in the total staff of the court of 17 due to the deletion of 2 staff positions for a senior judge.) Thirteen of these positions would be located in the judges' chambers as law clerk positions. This

would provide one additional law clerk for each judge and two for the Chief Judge. Four of the positions would be located in the Clerk's Office, one in the Library, and one in the Administrative Services Office.

The largest part of our request is for additional law clerk positions for the active judges of the court. This request is for 13 positions at a cost in compensation and benefits of \$912,000, and covers two positions for the Chief Judge's chambers and one for each active judge. These 13 law clerk positions have previously been included in our budget requests for a 1993 supplemental appropriation and in the requested base of the 1994 appropriation but were not authorized. During the past year, we have hired temporary third law clerks for judges by using lapsed funds from a vacant judgeship and other vacant positions which we decided were not as urgently needed as were the additional law clerks. We have, for example, delayed implementing our settlement program. The additional help in chambers has enabled the court to attack its backlog. The base budget of this Circuit currently provides for two law clerks and one secretary in each chambers, which is the same as the staff authorized for part-time senior judges in the Article III judicial system (although not in our court). We need to have the temporary third law clerk positions made permanent and funded. Once we have a full complement of judges, these lapsed funds will be unavailable. Further, we are unable to offer positions in advance or that run past the fiscal year. Even with the additional clerk, the active judges' staff will be one less than other circuit judges.

The court requests four additional clerical positions for the Clerk's Office at a cost of \$167,000. There is now only one secretary in the Clerk's Office. A secretarial position is needed to assist the chief deputy clerk and the operations manager and to insure that the secretarial functions for the entire office, now exclusively provided by the secretary to the Clerk, are available whenever required. An automation position is needed because the complexity of the Clerk's database management system has grown beyond the competence of the nontechnical staff to maintain as extra duties. Two clerical positions are needed, one position for a calendar/deputy clerk to alleviate the calendar functions now performed by the chief deputy clerk as an extra duty, and one position for a records manager to develop a records manager system now required to keep pace with the large increase in the permanent records that the court must maintain.

The court requests one additional permanent position for an assistant librarian in the library at a cost of \$52,000. The Federal Circuit library serves the judges and staff of both the Federal Circuit and the Court of Federal Claims. Congress increased the staff of the Federal Claims Court by 18 law clerks in 1993. Also included in this patron population is the Office of the Special Masters and their staff. There are currently five permanent positions in the library serving both courts. This request will bring the library to 71 percent of the staffing formula adopted by the Judicial Conference of the United States. The duties of library staff, in addition to maintaining the collection, encompasses reference and research assistance, interlibrary loan requests, training and assistance in searching Lexis and Westlaw, providing legislative history reports. The requested position will allow the library staff to effectively address the increases in its workload.

The Federal Circuit does not have a circuit Executive's Office. The Administrative Services Office is responsible for the operations of the court, such as personnel, payroll, coordinating and monitoring of the court's budget, printing and distribution of opinions, maintenance of computers and all other equipment, all purchasing for the court, coordination of building maintenance with GSA, and the like. Because of the increased use of computers by the judges and staff of the court and the development of E-Mail communication, as well as a public bulletin board for distribution of opinions, we find it necessary to request a Systems Manager position at a cost of \$64,000. We are currently provided with only one systems staff member and it is becoming impossible for this person to keep up with the daily requests and problems throughout the court. With the demands for, and growing use of, computers and computer-related services, we feel this request is justified.

*Improvements in Service.*—A sum of \$17,000 is requested for the library for access to an on-line legislative tracking system that provides accurate, dependable and timely information on federal legislation. The premier function of such a system is the ability to track the legislative history of both pending legislation and legislation from prior Congresses. In addition, the system will: provide access to a full range of Congressional materials; permit searching of bills by key-word or subject; and contain the full text of all versions of all bills introduced in Congress, as well as full text of committee actions and committee reports.

An online legislative tracking system is essential to the court library's legislative history program, and will enable us to provide the judges with fast, accurate and reliable information on both pending and enacted legislation.

I should be glad, Mr. Chairman, to attempt to answer any questions you or the Committee may have in respect to our budget.

STATEMENT OF DOMINICK L. DiCARLO, JUDGE, U.S. COURT OF INTERNATIONAL TRADE

Mr. Chairman, Members of the Committee: I appear on behalf of the United States Court of International Trade together with the Clerk of the Court, Joseph Lombardi.

The 1995 appropriation request initially approved and submitted by the court in September 1993 was \$11,765,000.

Today, I am able to advise the Committee that the court's initial 1995 budget request has been reduced. The reduced appropriation request is \$11,410,000, or \$355,000 less than the initial estimated request of \$11,765,000, and is less than 4 percent more than the 1994 appropriation of \$11,000,000.

We have implemented a number of cost-cutting measures. At the recommendation of the Clerk of the Court, we are abolishing six positions in the Clerk's Office at a savings of \$355,000. Due to the automation of various functions and a decrease in workload, these positions no longer are required.

Another area which resulted in reduced costs and more efficient service was the elimination of in-house printing and distribution of the court's slip opinions, for a savings of \$30,000 annually.

And, in a continuing effort to reduce its GSA rent obligation, the court relinquished 5,000 square feet of assigned space, for a savings of \$250,000.

Of the requested increase, \$555,000, or 73 percent, is for GSA space rental costs.

The amount needed for mandatory pay rate adjustments and benefits for judges and supporting personnel is \$161,000, or 21 percent, of the requested increase. Included in this amount is funding necessary for increases in health benefits, Federal Employees Retirement System (FERS), and Social Security.

The remaining \$49,000, or 6 percent, of the requested increase is attributable to Postal Service reimbursement and inflationary increases for travel, services, supplies and equipment.

To summarize the court's fiscal year 1995 requested increase of \$765,000: \$555,000 (73 percent) is for GSA rent; \$161,000 (21 percent) is for mandatory pay increases and other adjustments; and, the remaining \$49,000 (6 percent) is for Postal Service reimbursement and inflationary increases.

Overall, the abolishment of six positions in the Clerk's Office, the relinquishment to GSA of 5,000 square feet of space, and other cost-cutting measures permits the court to reduce its appropriation requirements by more than \$600,000.

I would like to emphasize that the court will continue, as it has in the past, to conserve its financial resources through sound and prudent personnel and fiscal management practices.

The court's "General Statement and Information" and "Justification of Changes", which provide detailed descriptions of the line item adjustments, have been submitted previously. If the Committee requires more information, we will be pleased to submit it, and I will attempt to answer any questions you may wish to ask.

STATEMENT OF WILLIAM W. WILKINS, JR., CHAIRMAN, U.S. SENTENCING COMMISSION

Mr. Chairman, members of the Committee, I appreciate this opportunity to appear before you on behalf of the United States Sentencing Commission. I have asked the Staff Director for the Commission, Phyllis J. Newton, and our General Counsel, John R. Steer, to join me today.

This is the last time I will have the pleasure of testifying before this Committee on behalf of the Sentencing Commission. I have fulfilled my term as Chairman and will leave these duties to someone else when my successor is confirmed. I would like to take this opportunity to thank the Committee for its consistently strong support of the Commission's important work. As you know, I have been straightforward in my dealings with you, and you have responded in a like manner.

I am extremely proud to be associated with the historic work of the Commission. The agency has set a high standard for doing a thorough job, in the first instance by developing sentencing guidelines for individual offenders in the 18-month period prescribed by Congress. Just examining the criminal justice issues critical to setting up a determinate sentencing system for individual offenders and drafting the initial guidelines was a mammoth task. The Commission collected and analyzed an enormous amount of empirical sentencing data, and it wrote a comprehensive set of guidelines that are serving well the objectives of the Sentencing Reform Act by pro-

viding appropriately tough, fair, and markedly more uniform punishment for similar offenders.

Since the guidelines went into effect in 1987, more than 179,000 defendants have been sentenced under this new system of justice. Here are just a few of the accomplishments in which the Commission takes pride:

- The Commission has developed an automated system for monitoring sentencing under the guidelines. More than 42,000 cases are received annually and entered into our comprehensive database. We extract more than 243 pieces of information from various court documents on each case for this database.
- During the past six and a half years, Commission staff have provided training on the sentencing guidelines to more than 18,000 individuals involved in federal sentencing at programs sponsored by the Commission, the Federal Judicial Center, Department of Justice, American Bar Association, and other criminal justice agencies or practitioners.
- Commission staff maintain two telephone "hotline" systems for guideline application inquiries from federal judges, probation officers, defense attorneys, and prosecutors through which we are responding currently to 300 calls a month.
- The Commission has produced annual updates of the federal sentencing Guidelines Manual, new guidelines for sentencing organizational defendants, and policy statements for revocation of probation and supervised release.
- The Commission has also produced a number of special analyses and research reports to Congress. These include the following:
  - A comprehensive review of the operation of mandatory minimum penalties in the federal criminal justice system (required by Public Law 101-647 § 1703).
  - An evaluation report on the operation of the guidelines system and short-term impacts of disparity in sentencing, use of incarceration, and prosecutorial discretion and plea bargaining (required by Public Law 98-473 § 236, 98 Stat. 1837, 2033 (1984)).
  - A comprehensive review of maximum statutory penalties, with recommendations for legislative changes (required by 28 U.S.C. § 994(n)).
  - Crack cocaine and federal sentencing policy report (forthcoming) (authorized by 28 U.S.C. §§ 994(r) and 995(a)(20)).
  - Maximum utilization of prison resources (joint report with Bureau of Prisons—forthcoming) (required by 28 U.S.C. § 994(q)).
  - Race and ethnicity in sentencing under the guidelines report (forthcoming) (authorized by 28 U.S.C. § 995(a)(14)–(16)).

These reports are comprehensive analyses of some of the most difficult issues facing legislators and policymakers today. They represent the Commission's continuing efforts to assist the Congress in establishing effective crime control through a responsive criminal justice system that can adapt to the dynamic nature of our society.

On behalf of the Commission, I request that this Committee provide the funds the Commission needs to continue this very necessary research and analysis to provide high quality, timely reports to Congress. Last year, despite the fact that the Commission asked for no increase from the previous year's appropriation, our budget was cut six percent; that is over half a million dollars. With continued funding at that level, the Commission will not be able to continue to fulfill its guideline development and amendment role and to conduct the full-scale research and analysis program the Congress envisioned in the Sentencing Reform Act. I believe some information about the agency's history, activities, and accomplishments will help you understand my concern.

#### SENTENCING REFORM ACT PROVISIONS

The Commission was created under the Sentencing Reform Act of 1984 as a permanent, independent agency within the Judicial Branch. In drafting the Sentencing Reform Act, Congress sought to bring certainty, honesty, and fairness into the sentencing process. To this end, the Act assigns broad authority to the Commission to review, change, and rationalize the federal sentencing process.

In specific terms, Congress gave the Commission a dual mission to: (1) develop sentencing policies and practices for the federal courts; and (2) establish long-term research and education programs under which the Commission would collect and analyze sentencing data, otherwise evaluate sentencing practices, periodically recommend improvements in the criminal justice system, and regularly provide sentencing training and information.

The Commission was organized in October 1985 and submitted the initial sentencing guidelines to Congress in April 1987. The federal sentencing guidelines, after the requisite six-month period of congressional review, became effective on Novem-

ber 1, 1987, for offenses occurring on or after that date. Congress did not change or delay enactment of the guidelines in any way.

After an initial period of litigation regarding the guidelines' constitutionality, the United States Supreme Court, in *Mistretta v. United States*, 488 U.S. 362 (1989), upheld the constitutionality of the statute, the guidelines, and the Commission as an independent judicial branch agency. The sentencing guidelines have now been applied nationwide for more than five years.

The Commission has largely completed the developmental efforts to fulfill the first part of its dual mission. The agency will continue to refine the sentencing guidelines and develop new guidelines based on direction from Congress. The primary focus in the upcoming years will be on providing the research, monitoring, and advisory functions Congress intended us to provide to support its policymaking activities and meet the needs of the criminal justice community.

Let me assure you that, even though the individual Commissioners now are in a part-time status, the statute did not foresee any diminution in responsibilities for the Commission as an agency. We are forging ahead with our major duties and focusing our efforts on reviews of significant criminal justice issues in order to assist Congress in its consideration of crime control and criminal justice policies.

#### CONTINUING RESPONSIBILITIES

The Commission's continuing responsibilities, as outlined by statute, are concentrated in the following areas: amending the sentencing guidelines to implement crime legislation enacted by Congress; refining and suggesting improvements to the sentencing guidelines and policy statements in light of court decisions and advancement of knowledge through criminal justice research; monitoring the application of the guidelines and evaluating the extent to which the guidelines have achieved the goals set out by Congress; conducting sentencing research, education, and information dissemination activities; and, making recommendations to Congress concerning modifications of statutes relating to sentencing, penal, and correctional matters that the Commission finds necessary and advisable to carry out an effective, humane, and rational sentencing policy.

In the past several years, the Commission has used its statutory authority to amend existing guidelines and to promulgate new ones. The Commission uses interdisciplinary staff working groups to provide comprehensive examinations of particular issues and draft new or revised guidelines. This process is supplemented by extensive written and oral public comment, as well as in-house research and analysis on how the guidelines are being applied. Two years ago, the Commission authorized a group of experts from government, business, academic institutions, and environmental advocacy groups to examine the feasibility of developing sentencing guidelines for organizations convicted of environmental offenses. The group has produced a set of recommendations for Commission consideration. This important work will move to in-house analysis in the coming year.

During this year's amendment cycle, staff working groups have examined issues and presented reports related to computer crime, public corruption, and crack cocaine. The Commission also actively encourages and receives advice and comment on various issues from members of the Criminal Law Committee of the Judicial Conference, as well as groups of defense attorneys, assistant U.S. attorneys, and probation officers.

In 1995, the Commission expects to have staff working groups examine issues related to sentence reductions for substantial assistance to authorities (prosecutorial practices), food and drug violations for individuals and organizations, and criminal history.

The Commission also anticipates that, upon enactment, the pending crime bill will necessitate a major commitment of staff resources to analyze its sentencing-related provisions and prepare the implementing guideline amendments. From a sentencing policy perspective, the bill passed by the Senate last November will surely entail major changes in the guideline system. For example, in our analysis of the bill to date, we have noted at least 11 sections that would establish or increase mandatory minimum penalties, 17 sections that direct the Commission to amend the guidelines in a specified manner, and dozens of other provisions that would affect sentencing and Commission responsibilities in some way (e.g., by increasing statutory penalties, creating new federal crimes, requiring a prison impact assessment for legislative proposals affecting penalties). Additionally, the bill may well require that the Commission develop a distinct set of sentencing guidelines and policy statements for juvenile offenders. As the House develops provisions in response to the Senate bill, we will perform an ongoing analysis of the possible impacts of various proposals.

Certainly the Commission wants to do its part to promulgate promptly all necessary amendments to conform the guidelines with this pending major revision of the criminal statutes. I must emphasize, however, the complexity and resource intensive nature of the task. Often it is not self evident from statutory penalty changes how related guidelines should be amended. Moreover, many directives to the Commission are written—as we encourage Congress to write them—to require that we first thoroughly analyze sentencing data and case law and then amend the guidelines as necessary. My point is that implementation of a major crime bill requires much careful analysis and time consuming work by Commission staff to ensure that the amended guidelines faithfully carry out congressional intent in a coherent, rational manner within the guideline system as a whole. The ensuing changes in sentencing policy are far too important in terms of the underlying goals of effective crime control to be compromised by a lack of sufficient resources. Accordingly, as this Committee strives to appropriately allocate the billions of dollars earmarked for the pending crime bill, I sincerely hope that it will be able to find the relatively small but necessary additional funding to meet the Commission's various programmatic needs.

The Commission is currently working toward completion of the design and testing phases of its extensive sentencing data collection system. New data collection modules being added to the database will include information on organizational defendants, offenders who are subject to revocation of probation or supervised release, and real offense conduct. This comprehensive database is the basis for monitoring and evaluating application of the sentencing guidelines, for many of the research projects we undertake, and for nearly all of the analyses we perform for Congress and criminal justice entities.

The Commission recently requested indictments on each case sentenced under the guidelines. This important document provides critical information in examining prosecutorial practices under the guidelines system. Many members of Congress have voiced concern about increased prosecutorial discretion. With the computerization of information from these indictments, the Commission will be in a better position to answer these important questions.

In addition, the Commission is in the process of making its appeals database operational, with more than 5,300 cases now in-house. This database will complement the collection of empirical data to monitor district court sentencing with a similar data bank relating to appeals of guideline cases. This will provide more complete information on the frequency with which specific guideline issues are appealed and enable the Commission to assess more effectively the effects of its guideline amendments on appeals. The appeals database will serve as an excellent reference tool for the Commission in amending sentencing guidelines and for informing Congress and the criminal justice community about court action related to the guidelines.

Commission staff provides various forms of assistance to judges, probation officers, defense attorneys, and prosecutors, including periodic training courses, software, answers to "hotline" telephone inquiries, publications, and other educational materials. When the Commission receives a request for guidelines training from a probation office or court, we perform a "training sweep," where we contact all members of the court family in the area and organize a training session that encompasses every groups' training needs. This cuts down on repeated trips to the same area, limiting travel costs, while continuing to increase the knowledge of various practitioners about the guidelines.

In another effort to hold down travel costs, the Commission has just produced its first training video on recent amendments to the sentencing guidelines. The video was distributed to probation offices, federal and community defenders, and other interested parties. We have received positive feedback on the educational value of the video and plan to continue this cost-effective method of training.

We are working with staff from the courts on ways to automate case documentation and transmit data to the Commission without submitting paper files. The ASSYST (Applied Sentencing System) software program is an automated version of the Commission's guideline worksheets that we have developed for use by probation officers in preparing presentence investigation reports for the sentencing court. ASSYST allows access to the software by probation offices' computer networks, sharing of databases containing sentencing information, and compatibility with the Administrative Office of the U.S. Courts' data collection system. This will aid in providing a central, integrated location for electronic collection of sentencing data. This is an important part of our continuing efforts to expand the utility of existing computer programs and encourage broader use of such tools to aid in guideline application, preparation of presentence reports, and electronic collection of sentencing data.

In 1994, we are initiating our first test of electronic data transfer of judgment and commitment orders. We currently are working with the Administrative Office of the

U.S. Courts to design a program that will allow electronic transfer of the judgment data nationwide. Our target date for testing this system is May 1994. The coming year will be spent implementing and training on this program. We see this as only the beginning of many efforts to save money through increased computer transfer of data.

A number of long-term theoretical, applied, and past sentencing practice comparison research projects are underway and will continue in the future. Commission research staff is looking at such important issues as disparity, prison impact, recidivism, and crime mix in the federal system. The Commission considers the impact of guideline amendments on prison projections on an annual basis, and we have already completed a significant amount of work to establish a long-term comparison of data on recidivism before and after the guidelines. Work is underway on a public opinion survey regarding offense severity/just punishment, and the results of this important study will be available later this year. Work is also ongoing on our crime mix study; this analysis is looking at the changes over time (between 1984 and 1990) in the seriousness of offenders and offenses entering the federal system in an effort to pinpoint whether offenders and offenses are becoming more serious than in the past or whether penalty structures are becoming more severe. The results of this study should assist in better targeting federal sentencing policy to address the crime problem. For example, if the results show an increased seriousness for certain categories of offenders, the penalty applied to criminal history for those categories could be increased in the guidelines.

The Commission responds to numerous research requests from Congress and the courts for objective assessments on important criminal justice issues using the specialized information we gather. During the past year, Congress and criminal justice agencies have markedly increased their requests for information from the Commission, as well as for the Commission to serve as an independent advisor on criminal justice matters. For example, the Commission has responded to over 100 requests for information on the effects of proposed Crime Bill provisions on current penalties and sentencing issues, including the number of federal offenders subject to proposed provisions and potential growth in prison population.

#### RESOURCES REQUESTED FOR 1995

The Commission is requesting a net increase of \$732,000 over its fiscal year 1994 appropriation to provide for mandatory adjustments in salaries and benefits and to fund program-related contracts. Let me emphasize, the Commission is not requesting additional staff positions to achieve its objectives.

Because we are mindful of the limited funds available and are trying to do our part in tightening our belts, the Commission voluntarily has applied the Office of Management and Budget's (OMB) administrative efficiency overhead reduction of six percent to the applicable cost categories in our fiscal year 1995 request. This effort to be as fiscally responsible as possible means there are no inflationary increases in such areas as transportation of things, communications, utilities and other miscellaneous charges, printing, and supplies. This budget request is also in line with the guidance from OMB regarding locality pay and inflationary pay raises.

Of this total increase, \$521,000 will be used for program-related research contracts. The Commission's overall research focus has shifted to assisting the Congress and the criminal justice community with analyses of various criminal justice matters, in addition to exploring the impact and effectiveness of the guidelines in advancing the purposes of sentencing established by the Sentencing Reform Act. Descriptions of critical research projects planned for fiscal year 1995 follow.

As part of the statutory mandate to "develop means of measuring the degree to which the sentencing, penal, and correctional practices are effective in meeting the purposes of sentencing" (28 U.S.C. § 991 (b)(2)), the Commission has initiated preliminary work on the sentencing purpose of selective incapacitation. Much research has been undertaken in the area of selective incapacitation, and much has been written that furthers our knowledge of the benefits of this sentencing purpose. The Commission will capitalize on these efforts by completing a thorough review of costs and benefits from the important work accomplished to date, identifying those areas that need further empirical work. In this way, the Commission will avoid unnecessary expenditure of funds by maximizing the contributions of other, well-respected research endeavors. When the review and analysis are complete, the Commission will incorporate the findings to study whether or not the federal sentencing guidelines are meeting the statutory purpose of selective incapacitation. The Commission already has begun studies on the sentencing purposes of recidivism and just punishment and expects to undertake research on deterrence in 1995.

During 1994, the Commission will submit a special report to Congress on crack cocaine and the impact of the statutory distinctions for crack in comparison to other drugs on the federal criminal justice system. This will provide a comprehensive examination of issues related to crack cocaine and an up-to-date report of research for members of Congress on this important criminal justice issue. In fiscal year 1995, the Commission intends to consolidate research efforts in the prior record area, examining the question of repeat offenders and the part they play in the federal criminal justice system. Additionally, the Commission will embark on a major examination of firearms: who uses them, when, and what types they are using. Such studies are critical to fulfilling the mandate Congress intended for the Commission.

The Commission also will continue its important and timely work in examining data related to the federal prison population in an effort to assist Congress in implementing goals related to crime control. Specifically, as Congress considers legislation for which increased use of incarceration will be necessary, it is critical that the federal system not find itself in the same situation as many states: that is, forced to release inmates to make room for increasing numbers of new offenders. The Commission will examine whether there are appropriate candidates in the federal system for some other or lesser form of punitive sanctions that would be useful to criminal justice practitioners and decisionmakers in their efforts to deal with the crime problem in America.

Last year, the Commission held its first in a series of symposia on crime and punishment and brought experts and policymakers together to share information and exchange ideas about the specific problems of drug abuse and violence. As a second step, the Commission has assembled a task force of criminal justice experts, academicians, and practitioners to provide an in-depth examination of the issues and recommendations resulting from the initial symposium. The Commission expects that this follow-on analysis of the relationship between drugs and violence will lead to short-term research projects and produce recommendations concerning policy issues, potential legislation, and prevention and treatment alternatives. In fiscal year 1995, the Commission plans to hold its second symposium on crime and punishment.

In summary, we are asking for a program increase in the contract area so that we can effectively do the analytical and advisory work that Congress intended us to do, in addition to our continuing guideline amendment, training, and sentence monitoring efforts. The criminal justice system is a constantly changing system that requires continuous analysis in order to pursue the goal of establishing an effective crime control model. The Commission is the logical entity to study the effects of the guidelines on sentencing as well as serving Congress and the criminal justice community as an independent advisor on sentencing-related issues. All branches of government must have available to them the most current information on issues integral to their public policy decisionmaking.

The Commission is aware of the limited resources available in the budget and has consistently prepared its appropriation requests as frugally as possible. But if the Commission is to continue to provide essential sentencing, penal, and correctional research and criminal profile information to the Congress and others, it must be given the resources to accomplish these tasks.

#### A HARD FREEZE

Senator DOMENICI. Mr. Chairman, we were speaking of the Supreme Court and the Federal judicial system and the additional workload of the crime bill. I think you know when we were about two-thirds finished with that crime bill I asked the managers of that bill on the floor to include additional money, and I believe we authorized, starting in 1995, a \$70 million a year increase to help with any additional burdens that might be imposed on the judiciary.

Having said that, I am not sure that you all would know this, but the Congressional Budget Office has estimated that the President's budget is actually \$3.1 billion higher than the cap, and for the first round up here, the Congressional Budget Office rules. It is an anomaly, but later on, when you talk about sequestering, OMB rules. So our bills are going to be measured against what OMB says, I am afraid. So it is \$3.1 billion high.

There is one proposal in the House to freeze the judiciary accounts. I gather that is about a \$360 million reduction.

That is called a hard freeze, but you have heard those words before. You might comment on what might happen, in due course, on what might happen if there is a hard freeze. I think it might be good for us to have that. If you can't do it today, maybe you can submit it so I can use it in the budget markup.

#### OPENING REMARKS

Senator HOLLINGS. Surely.

Judge ARNOLD. Welcome back, sir.

Judge ARNOLD. Mr. Chairman, thank you very much.

Senator HOLLINGS. Is it the case that your request is less now because we have moved Judge Blatt off of the Budget Committee?

Judge ARNOLD. No, sir; Judge Blatt is on the Budget Committee.

Senator HOLLINGS. He is still on? You are in charge.

Judge ARNOLD. I am not in charge of Judge Blatt. [Laughter.]

Senator HOLLINGS. Neither am I.

Judge ARNOLD. As long as I have anything to do with it, Judge Blatt will be on the Budget Committee.

Senator HOLLINGS. Very good.

Judge ARNOLD. I want to thank the Chair and Senator Domenici for your remarks. I want to thank you especially for the kindness that you have shown us in the past. We have been well treated by the Congress, and I lose no opportunity to tell that to judges when I travel about the country talking to them about budget matters.

This is my seventh year to present the budget request for the judiciary to the Congress and, Mr. Chairman, seven is my lucky number. So I am very happy that the Chair noted that the increase that we are requesting, although not insubstantial, is less than it has been in the past. In fact, it is the smallest number percentage-wise that I have asked for. I want to give credit to the leadership of the Congress for helping those of us in the judiciary who are interested in efficiency to help us bring this about.

#### ECONOMY SUBCOMMITTEE

For example, the Congress has strongly encouraged us to create an economy subcommittee as part of the Budget Committee of the Judicial Conference. It will really take, and is taking, a hard look at our budget requests; not simply adding up numbers and coming up with standard increases every year. I am proud of that effort, and I believe that it will bear fruit.

#### OMB NEGATIVE ALLOWANCE

We also have surmounted a really difficult problem that we had last year with OMB. As the Chair knows, the Office of Management and Budget effectively cut our budget request last year, we believe, contrary to law. That problem is behind us. It did not happen this year, and I am convinced that it will not happen again.

#### CONSISTENCY WITH EXECUTIVE BRANCH REQUEST

Then we also have made, again, under your leadership, really diligent efforts to make our request consistent with the executive

branch request in technical terms. What we characterize as a base or an adjustment to base and what we apply in terms of pay adjustments are consistent with what the executive branch is applying so that you can better compare the two requests.

#### COOPERATION WITH OTHER BRANCHES OF GOVERNMENT

We are trying to cooperate with the other branches of Government. We know that we have separation of powers, but we know that we live in the same world, and we need to work together wherever we can.

For example, on the subject of federalism, there is a three-branch conference being held Monday, convened by the Attorney General, that will be attended by members of the judiciary, Members of Congress, and people from the executive branch to try to talk through, in a rational and dispassionate way, these issues: what is best handled by Federal courts and what needs we are not meeting that we ought to be meeting.

Senator HOLLINGS. Good.

#### HARD FREEZE

Judge ARNOLD. If I could I would like to comment about the hard freeze, and we probably would like to give additional comments for the record.

Senator HOLLINGS. Sure.

Judge ARNOLD. If by hard freeze it is meant that our budget would be cut back from \$3.1 billion to \$2.7, or \$364 million less, if that is being done as a consequence of the whole discretionary number being \$3.1 billion too much, then we are taking a very disproportionate hit. Our share of the \$3.1 billion, if it were spread out pro rata, would be much, much less than the \$364 million. You will know the numbers, but \$3.1 billion has got to be probably on the order of 1 percent of the domestic discretionary total, something like that.

Senator DOMENICI. Pretty close.

Judge ARNOLD. For us to take a 13-percent cut because of that, we would hope would not happen.

#### ADMINISTRATIVE OFFICE AND FEDERAL JUDICIAL CENTER

Could I just say two other things, Mr. Chairman? This is about the Administrative Office of the U.S. Courts and the Federal Judicial Center. These are relatively small parts of our budget, but in the last 3 or 4 years, they have suffered disproportionately. In the case of the Center, the real dollars appropriated for the Federal Judicial Center are going down, and have gone down.

So this year we are asking for an increase from \$18.5 to \$19.7 million for the Center. In the case of the Administrative Office, they have had a hard freeze on employment, and their absolute dollar amount went down from 1993 to 1994. So this year we are asking for an increase in the Administrative Office from \$44.9 million to \$48.8 million.

I know that you cannot do everything that we are asking you to do. But, if it is possible to preserve virtually intact those smaller accounts, we would be grateful.

Senator HOLLINGS. Very good.

#### OUTLAY REESTIMATES

When we talk about that \$3.1 billion the CBO says that the President's budget underestimates outlays. The breakdown, as Senator Domenici and I would view it, is at \$550 million in outlays from this particular bill. Whether it is the judiciary, the FBI, the National Institute of Standards and Technology and everything else, to say the prior year outlays have been all understated with respect to the judiciary alone, it is \$159 million.

I am looking at that breakdown.

Senator DOMENICI. Yes, sir.

Senator HOLLINGS. You will be looking at that breakdown to find out.

Senator DOMENICI. Right.

#### BANKRUPTCY JUDGESHIPS

Senator HOLLINGS. I am going to submit most of our questions, Judge, because we have another group waiting upstairs. But, on bankruptcy, for judges, I see that you are requesting an increase of \$1.4 million to recall six bankruptcy judges.

You have budgeted here, for the support staff on a 10-month basis, the cost of 35 new bankruptcy judgeships, yet when we look at the caseload, the caseload keeps going down. In fact, last year bankruptcy filings dropped 7 percent to 910,000. Your estimate dropped another 8 percent to 840,000, and when we reexamined it all during the year and cut back we see new judgeships have not been filled and the workload is going down and yet you are asking for an increase.

How do I reconcile that? Can you explain that for me?

Judge ARNOLD. Yes, sir; in the first place, we are asking for 247 fewer bankruptcy clerk office positions in 1995 than we had in 1994 because we know that the caseload is going down. With respect to the 35 newly created bankruptcy judgeships created by act of Congress, those judgeships were created based upon 1990 caseload numbers. Of those 35, 28 have been filled.

The Judicial Council of the Fifth Circuit has decided not to fill two of the judgeships in the Southern District of Texas and the Western District of Texas, and there are five others that are still pending.

Your question was about recalling six bankruptcy judgeships. Why are they being recalled when the caseload is going down?

Senator HOLLINGS. And you are not filling the others, that is right.

Judge ARNOLD. The answer is that the decision is made on a district-specific basis. The districts in which those six are being recalled do have the caseload to justify recall, and recalling a bankruptcy judge is a whole lot cheaper than creating a new judgeship.

#### CRIME BILL

Senator HOLLINGS. Let me ask about that crime bill. Do you have any comments or suggestions about that crime bill?

Judge ARNOLD. I think my comments come in two stages. I want to emphasize the budget aspect of it, because that is my job.

Senator HOLLINGS. Right.

Judge ARNOLD. Whatever you all do in terms of legislative policy is your business. We do the work you give us to do. It is a decision of policy to be made by the elected representatives of the people. My major concern is that when you decide to give us more work, if you do, we be given the resources to do the work. We want to make the bricks, but we need the straw to make them.

The other thing, and I want to go on record here, is our thanks for the successful effort made on the floor to get a \$300 million authorization, \$20 million for this year, which apparently won't be used, and \$70 million for each of the four following years for the expenses of the judiciary that may be incurred in carrying out that bill.

We don't know what those expenses will be, but we do appreciate the awareness on the part of the Congress that there will be some. I do want to say that the Criminal Law Committee of the Judicial Conference and the Federal State Relations Committee are concerned about the implications for the Federal court system of giving us a lot more criminal work.

Let me give you some numbers here. We estimate that every year there are about 225,000 offenses with guns for which people are arrested.

Senator DOMENICI. How many?

Judge ARNOLD. Two hundred twenty-five thousand. There are a lot of offenses with guns for which nobody gets arrested; they won't come into the court system. But, the ones that get arrested, we think, are 225,000.

If those cases all came into the Federal court system, and we know they won't, but just to give you the ball park estimate, if they all came into the Federal court it would cost \$7 billion, which is more than twice what our whole budget is.

So the question is: How many of them would come into the Federal court? That depends on how many assistant U.S. attorneys are added to do that work. The bill as passed by the Senate authorizes \$55 million for new assistant U.S. attorneys. Of that amount, \$20 million is earmarked for gangs. If the other part were all for firearms, \$35 million would be available to prosecute these firearms offenses.

We estimate the \$35 million would hire 150 lawyers, and we estimate that those lawyers would bring up to 2,300 more cases every year. That is a large number; it is a 5-percent increase over what is expected to be filed this year but in terms of the whole universe of 225,000 offenses, it is not a big increment.

So the bottom line is: The effect on us depends on the executive branch. What will they do about prosecuting these crimes?

Senator DOMENICI. Right.

Judge ARNOLD. How many more positions and how much more in the way of resources would you give them to prosecute these crimes? Whatever you do, we just ask you to keep in mind that these folks have to go through court on their way to jail or on their way to acquittal, as the case may be.

Judge WALKER. If I could just add one thing, as our Budget Chairman has just pointed out to you, there would be a 5-percent increase in the Federal workload with 2,300 crimes coming over and being prosecuted, but the diminishment of the activity at the State level will be just about 1 percent. It would have a measurable impact on the kind of caseload each judge carries. One has to question, I think, whether the reduction of the caseload in the States by 1 percent is really an answer to the perceived, somewhat incorrectly, in my view, notion that the States are incapable of doing a good job.

It seems to me that the States are capable of doing a good job. There are many outstanding State attorneys general and prosecutors. I come from New York City, and historically one of the finest prosecutorial offices in the country is in the county of New York.

It seems to me that if there can be a way of strengthening State systems, because they do prosecute 95 percent of the crimes, that should be fully explored rather than simply saying, "They can't do a good job." Shifting it over to the Federal Government will not tackle the entire problem or even more than a rather small percentage of it.

Senator HOLLINGS. I understand.

Senator Domenici, you have got to leave?

#### STATE JUSTICE SYSTEM

Senator DOMENICI. Yes; I left questions with Senator Hatfield. Let me just say to the Judge and those who work for the courts, I understand all the statistics you have spoken of, in particular as to the relative significance of 2,300 additional cases, if that is the right number.

But I tell you what: I am not sitting here saying that the States can't do it. I am telling you that what I am finding, and I would just almost intuitively say it is probably the case in a majority of the States, that the judicial system of the States, in particular, the criminal part, just can't cope with the problems that are out there on the crime side.

If anything, we ought to be helping them, which you may be suggesting.

Judge WALKER. Indeed.

Senator DOMENICI. But we don't do that very easily, either. It is a lot easier for somebody to vote for a new crime up here than it is to put up some more money to go help on the 5-year game plan to get the dockets down in the States. Because that takes a few hundreds of millions of dollars.

But we have a crime bill with \$22 billion, perhaps, and frankly, at the end of it, we started worrying about State courts. It was only when the former judge from Alabama, our good Senator, went to the floor and said, "We better help the district attorneys and the judges down there at the State level," and there is an amendment in the bill that got passed. Otherwise, it wouldn't even be in the bill.

So from my standpoint, I don't withdraw one bit from what I said this morning: That somehow everyone, the Federal courts, U.S. attorneys, Attorney General, Congress, has to help the States in terms of criminal justice. Something is going wrong out there, and

if you listen to good policemen, it is not the cops; it is what happens after they arrest them or when they know they have got a criminal, what happens next in that system, in particular, with juveniles.

I mean, the system just doesn't work. You have 14-year-olds committing serious, serious crimes and they are out of a detention home in 1 year and they are back there just bluffing the cops, laughing at them, waiting around to do another crime. The policemen know all that.

We had a case in our State just recently, Mr. Chairman, where a parole system permitted a three-time loser who had even been accused of killing a cop, permitted him to go out on parole to see a basketball game to see if he could become accustomed to the life of an ordinary citizen. It turned out while he was out, he didn't show up after the game, and he murdered, that night, the lady that raised him. If you don't think the people are asking, "What's wrong with that? Something is wrong," you ask the policemen. They say, "Ask anybody that knows about the man. They would never let him out."

It is those things that somehow, together, we have to help. I am not suggesting you have to do it, but I hope we all know it is really a sore spot with the American people. I, for one, am willing to help down at the State level. If the chairman thinks we ought to help the court systems down there and take it away from somewhere else, I am for doing that, because they need help, there is no question.

Thank you, Mr. Chairman.

Senator HOLLINGS. I am glad you are feeling about this.

Senator DOMENICI. I am feeling well today, Mr. Chairman.

Senator HOLLINGS. Good. Thank you.

Senator HATFIELD. Thank you, Mr. Chairman. First, Mr. Chairman, I ask unanimous consent to submit on behalf of Senator Domenici questions for the record.

Senator HOLLINGS. Very good.

Senator STEVENS. Thank you, Peter.

#### COURTHOUSE CONSTRUCTION

Senator HATFIELD. I would like to, first of all, make a suggestion based on a recent experience and then second, I would like to ask a question. If I have my history correct, sometime back the GAO criticized the judiciary for the way they handled the policies of housing the courts and the expansion of those housing facilities.

I believe then the court administrator or the administrative agency of the court went through a process of making estimates, projections, evaluations leading to what they felt to be the space needs.

One of the first projects out of that was the Portland Federal Courthouse, a needed facility, which the administrative agency of your court system made as a recommendation. Design and site acquisition was authorized; it was appropriated for that design and that capacity that the Court Administrative Office had recommended based on the needs for the next 30 years.

Now, at this point, the GSA comes in as the agent of the court, in a sense, and of the Congress as well. GSA, driven by budgetary

constraints, I am sure, not in any capricious or arbitrary manner, but certainly driven by probably budgetary constraints, asked for a redesign scaling down that square footage; went through that process, and by the time the extra architectural fees were paid, et cetera, et cetera, I am not sure we saved very much money.

We had the site location purchased; we had the preparation of that site ready to go; and then at the last minute GSA comes in for a second reduction, and we fought that, Senator Moynihan in the authorizing committee and Senator DeConcini in the Treasury-Post Office Appropriations Subcommittee, as well as the court advice, and by the way, the GSA request under the President's budget was for that level of funding before they issued another reduction order.

That is not going to be carried out, but my suggestion is: Based upon that experience, and it might be multiplied elsewhere, I would hope that there would be some kind of communication between the administrative agency of the court and the GSA. They didn't seem to sense the interconnectedness in my dealings with GSA.

We are all beyond that. Now it is going to contract and so forth, but I just had that interesting experience, because in effect, you have developed this system to answer the GAO criticism. So if one agency is going to criticize your policies and you develop a policy and then another Federal agency is not going to implement the policy, answering the criticism of the first Federal agency, I think you find yourself in, obviously, a sort of a whipsaw.

Judge ARNOLD. Senator, we are in a dialog with GSA now on that very subject. In fact, I have with me a statement that we prepared that was presented to a House committee which point by point gives our reaction to the criticisms that were made by GAO.

Senator HATFIELD. Good.

Judge ARNOLD. We are in a dialog with them and with GSA—

Senator HATFIELD. Good.

Judge ARNOLD [continuing]. To make sure that we at least understand each other as to where the process ought to go. I completely agree with you that we need to do a better job of communicating. This, incidentally, is neither specific to, nor unique to Portland.

Senator HATFIELD. I see. I didn't think so.

Judge ARNOLD. It is a nationwide process called time out and review under which GSA reviewed, I suppose, every government construction project, certainly every court project. It resulted in some changes which are not drastic. In general, the courthouse construction projects have survived that process. I have one in St. Louis where we are building a new courthouse for the court of appeals and the district court.

So I am sensitive to what you are saying, and we will submit, with your permission, for the record the statements that we have made on this subject.

Senator HATFIELD. Thank you. I would appreciate it.

[The information follows:]

STATEMENT OF P. GERALD THACKER BEFORE THE SUBCOMMITTEE ON PUBLIC BUILDINGS AND GROUNDS OF THE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION, HOUSE OF REPRESENTATIVES ON THE JUDICIARY'S LONG RANGE FACILITIES PLANNING PROCESS—OCTOBER 7, 1993

Mr. Chairman and Members of the Subcommittee: On behalf of the Federal Judiciary, I want to thank you for the opportunity to appear before you today to discuss the innovative approach the Judiciary has taken to determine its present and future real property needs. We are pleased to be invited to participate in what we believe will be a productive dialogue about our long range facilities planning process and the General Accounting Office's assessment of a portion of that process.

I would also like to take this opportunity to advise you of the initiatives the Judiciary has taken to control costs of courthouse construction since we last appeared before your Subcommittee.

Joining me today are Dr. Victor E. Flango, Director of Court Research at the National Center for State Courts, and Donald Hardenbergh, a research consultant at the Center, both of whom recently completed an evaluation of the Judiciary's long range planning process; Keith Fentress, a statistical consultant who has assisted us with developing our planning methodology; and Walter G. Moon, our primary staff person responsible for long range facilities planning at the Administrative Office of the U.S. Courts.

#### BACKGROUND

Before addressing GAO's report, which we received only three working days ago, I believe it is important first to provide the Subcommittee members with some background information about why the Judiciary has taken an active role in developing space plans for both the short and long term.

Mr. Chairman, the Judiciary is concerned about costs of courthouses and we believe that proper planning is essential if cost savings are to be realized. Historically, prior GSA administrations took a somewhat haphazard approach to the facilities needs of the courts, which in turn led the Judiciary to take a more active role in developing its space requirements. In March 1988, the Judicial Conference approved a proposal that requires each judicial district to develop a projection of its long term space needs using a standard methodology.

Prior to initiation of the long range planning process, GSA would frequently come before your Subcommittee and your counterpart Subcommittee in the Senate requesting funding for an addition to or renovation of a Federal facility only to have to come back as soon as the project was completed with another request to do more work at the same location. We instituted our long range planning process to save costs and to make the process more rational. It was developed to assist decision-makers within the Judiciary, the Executive Branch, and the Congress by looking beyond the "short term." It provides a context within which future decisions can be made about the facilities needs at a given location. This point is very important. The long range planning process is just one in a series of steps in the project development process. I have attached a flow diagram to this statement that summarizes the project development process. We recognize that GAO was asked to look at only the space projection methodology of the long range planning part of the process, but hope you will be willing to look at the much larger environment in which real property decisions are made in all three branches of Government.

We saw an urgent need to lend some structure to the space projection process because, and I say this with over 19 years of experience as an employee of the General Services Administration in a variety of mid-level and senior management positions, there was not and still is not a uniform procedure within the Executive Branch for determining future space needs.

Just over two years ago Nye Stevens, an Assistant Comptroller General at GAO, told the Environment and Public Works Committee of the Senate that:

Without a capital investment strategy that identifies total short and long-term space needs, relative priorities, and funding requirements, Congress cannot (1) systematically and rationally identify the most critical or most cost-beneficial projects to be constructed or renovated, (2) monitor GSA's performance in meeting overall space needs, or (3) anticipate future capital investment funding requirements.

The Judiciary has taken a look at this problem while the Executive Branch continues to lease more and more space, does not have any capital budget, and is hamstrung by budget rules that preclude more cost-effective alternatives for satisfying the Government's real property needs. I know you have introduced H.R. 2680 to eliminate these accounting impediments, and as you know the Judicial Conference endorsed the concept embodied in your bill on September 20, 1993, but without a

look at the long term, and a context within which you can make decisions, the Government will not be able to take advantage of investment opportunities in real property.

Given that the Judiciary is the first Federal organization to initiate a long range facilities planning process—a concept endorsed by GAO in Mr. Stevens' testimony—one would expect to find some strengths and some weaknesses in the procedures we use. We have come a long way since the first long range planning sessions were performed in 1989. We have learned the strengths and weaknesses of our methodologies. As in the initial phases of any project one would expect that adjustments might be necessary—and we welcome helpful suggestions to improve the process.

My testimony this morning will touch in summary fashion on the three findings of the GAO review:

Finding 1: That the courts have used different sets of data and different space standards as the process has evolved and that this situation should be corrected;

Finding 2: That the courts assume current space is and will be needed for all staff whether or not the staff is justified by workload and that, therefore, the starting points on which projections are based, i.e., "baselines," can be either overstated or understated; and

Finding 3: The projection methodology needs statistical adjustment and that a pure statistical methodology, in lieu of dependence on both a statistical projection and assumptions about workload made by local courts and Department of Justice staffs during the on-site planning process sessions, would be a better indicator of future space needs.

#### FINDING 1: USE OF CONSISTENT DATA AND ACCOUNTING FOR CASE COMPLEXITY

As stated on pages 28, 34, and 94 of the report, the Judiciary has gained useful experience with the planning process and recognizes that the plans completed in the initial phases were treated differently than those currently being developed. As I said earlier, we have learned a lot during four years of conducting the planning sessions. We are now, and have been, in the process of updating the plans to account for changes in space standards. We told the GAO staff this on many occasions, even prior to publication of the draft report. Unfortunately, this finding was published in the final report. Let me assure you that our older plans are now updated and requirements for specific projects certainly are reviewed prior to submission to GSA.

On the issue of accounting for case complexity, we have tried to streamline the process as well as we can—to keep it as simple as possible so that it can be readily understood by all parties involved in the project development process. When we categorize a district as to the nature of its caseload (see pages 19–20 and 33–34 of the report) we are accounting for case complexity. GAO states that this method is not statistically rigorous and in our comments we agreed to adopt more statistically rigorous methods (see page 95 of the report), although we are not sure that by adopting such methods GSA and the Congress will have any better information on which to base decisions about a given project than they have now.

In summary with regard to Finding 1, we already are, and have been for some time, updating the plans consistent with the recommendation on page 34 of the report that suggests that the "plans be updated whenever changes are made to the assumptions that affect staff/space allocations." With regard to the second recommendation on page 34, concerning the need to address case complexity in the process, we believe the application of the four growth model criteria described on page 19 of the report and the input from court managers during the plans' development address this recommendation, but are willing to address this concern in more detail.

#### FINDING 2: METHODOLOGY EMPLOYED TO ADDRESS STARTING POINT (BASELINE) FROM WHICH FUTURE PROJECTIONS ARE MADE

The report states that the methodology employed generally overestimates or underestimates the amount of space needed in a given judicial district (page 41 of the report). The variance from the Judiciary's estimates is eight percent higher using current authorized staffing levels to determine space need. The Judiciary's estimates are 16 percent higher, according to GAO, using caseload to determine staffing levels and then deriving the space needed to house staff. The report also states that there is a need to verify space deficiencies in a given district (page 42 of the report).

GAO's analysis overlooks several points which would influence space projections:

1. By using current staffing in its calculations, GAO assumed (as stated on page 72 of the report) that current staffing levels reflect actual need. This assumption does not take into account the fact that at the present time the Judiciary is

understaffed by almost 3,100 positions (15 percent) nationwide when actual work measurement criteria are applied to actual caseloads.

Given that GAO used ratios of average current staffing to caseload instead of the levels of staffing that would be authorized based on work measurement formulae, it is not surprising to find many districts staffed above average when compared to districts with similar characteristics. Because courts are understaffed, our projection process has a built-in conservative bias that is 15 percent less than that which is actually required to process the caseload of the courts.

2. The methodology employed by GAO assumes that each district is located in one facility location. If this were the case, the courts would be located in 94 buildings nationwide. In fact we are located in over 730 facilities each with its own specific space configurations, security requirements, and support spaces. GAO's analyses, for example, assume that there is only one clerk's office in a judicial district, when in fact there could be three or four. There also could be three or four jury assembly spaces or three or four drug testing facilities for satellite probation offices.

Given the need to provide public access to the judicial system, it is not always possible to take advantage of the economies inherent in being consolidated in one facility, particularly in large states such as Texas or California in which a number of divisional court locations have been established. By assuming that each district is located in one facility, GAO has understated our space requirements by 1.0 to 2.1 million square feet.

3. We believe that there is another component of the long range planning process that must be included when establishing a "deficit" of space in a court's current inventory of facilities: the use of the local court official's experience—judges, court executives and court staff who know first hand the nature of the court's workload at a given location in a judicial district.

On page 42 of the report GAO disagrees with this approach, and I would be happy to discuss your views on this technique with you today. GAO does recognize, however, that we have taken what I view as a very significant step toward standardizing the baseline upon which future space projections are made. On page 30 of the report, GAO notes that we have developed an automated system that will eliminate the need to use "add-on" factors to determine space requirements. On page 43 of the report GAO recognizes that the automated system " \* \* \* can eliminate the subjectivity that occurs when local [court] representatives identify [space] deficits." We have in fact already addressed GAO's concern.

GAO misses an important issue, however, by looking only at how the space requirements are developed and ignoring how the numbers are used.

The baseline of space requirements contains all the spaces needed with appropriate sizes for those spaces when the total requirements for the district are listed. The baseline of requirements is not used, however, to determine whether the current facility is adequate or inadequate. Current facilities are considered adequate unless there are serious functional space, health and safety, or security deficiencies. Serious functional space deficiencies might include the lack of an adequately sized jury assembly room, or a location in the facility where an office can be built for a new judge.

#### FINDING 3: ADJUSTING THE JUDICIARY'S STATISTICAL METHODOLOGY

In Chapter 4, the report generally deprecates the need for the local courts to provide input into the planning projections. Our reasons for using qualitative (subjective) as well as quantitative data in our projection process are well documented on page 90 of the report.

The report states, on page eight, that if we incorporate subjective input into the process, experts are needed to ensure reliable subjective input is provided and that " \* \* \* the local representatives that participate in AOC's on-site sessions often would not qualify as experts \* \* \*." I am sure that there are some judges and court staffs that would disagree with that statement.

In addition, we asked what input behavioral scientists had in developing the report. We are told, on page 101, that GAO policies define the roles of staff that perform "referencing" functions. We, however, are interested in an analysis of how social science researchers participated in writing the report because there are no references to how subjective analysis can be used in the process.

We disagree with GAO on the need to reduce the subjectivity of the process and to basically reduce it to a number-crunching exercise that may or may not have any relationship to the actual facilities needs of a given court location. We recognize that some minor statistical fine tuning might be necessary. We do not agree, however, that the need for some fine tuning is a basis for concluding, as GAO states, that

the results of the planning effort and the entire project development process cannot be used by the Congress to evaluate requests by GSA for new construction projects.

#### SUMMARY

Throughout the report GAO cumulated data on a nationwide basis to determine gross annual costs of rental payments and space requests. It was never our intention to cumulate all 94 plans and to then derive estimates of total space requirements nationwide. Each district's facilities plan is meant to stand on its own so that GSA can see how the particular plan fits into the needs of other Federal organizations in a given community. On page 51, as an example, GAO, indicates that our projections exceeded GAO's by 16 percent. Even if this is true, and we cannot agree that it is, I hope that you would recognize that such broad generalizations which attempt to invalidate the entire process need to be considered in the context of some facts:

- We are providing the Congress with the best information available on a given project. We recognize that GAO was asked only to study the methodology used to develop space projections in the long range planning and project development process. But the work done by GSA, outside consultants, and the Judiciary to produce more detailed independent analyses (known as prospectus development studies) and the other steps as shown on the flow chart I have included with this statement, all play a major role in the decision-making process.
- We are not asking GSA to build empty space for us.
- We are not asking GSA to build twenty or thirty year buildings for us. We would hope GSA would have the foresight to choose sites for a building that could accommodate expansion should it be needed in the future so that the investment being made today will not have to be abandoned in the future.
- We are not asking GSA to build space that has resulted from overstaffing because overstaffing does not currently exist.

#### COST CONTAINMENT AND OTHER INITIATIVES OF THE JUDICIAL BRANCH

Mr. Chairman, if I may I would like to briefly advise you of a number of initiatives we have undertaken to reduce the costs of court facilities. I know costs are of great concern to this Committee as they are to all taxpayers. In April of this year, we testified that we would look seriously at costs and take actions where feasible to reduce the costs of court facilities.

On September 20, 1993, the Judicial Conference of the United States approved changes to a number of space standards that will help us to avoid construction of duplicate types of spaces, such as conference rooms and training rooms, to address the need to consider the fiscal implications of design decisions, and to eliminate the requirements for a separate emergency exist path for judicial officers and prisoners. The specifics of these changes have been provided to the Subcommittee's staff.

We also have participated jointly with GSA in an independent courthouse cost panel. I would be pleased to discuss the preliminary findings of that review with you. In addition, the Judicial Conference endorsed, in concept, H.R. 881, The Ban on Smoking in Federal Buildings Act. I know you have shown great interest in that bill.

Mr. Chairman, I would be pleased to answer any questions you and the other Subcommittee members might have at this time. Again, we appreciate the opportunity to appear before you today.

Senator HOLLINGS. On that score, Mr. Mecham, you would have that responsibility. What about it?

Mr. MECHAM. I do have that responsibility, and it is a constant source of frustration for us as well. In theory, we are the clients, and GSA is the agent. In fact, the reverse is true. They are the clients, and we are the agent. We have sought legislation to try to change that.

I am happy to say that the Vice President, in his report on reinventing government, recommends precisely that that be done. We have worked closely with GSA. Often, they are thwarted by OMB. We will get an agreement out of GSA, and OMB will knock it out. We are not consulted on that; we are not consulted on priorities; and basically, we are left out of the process. We try to intervene.

Mr. Johnson, Julia Stasch, and the new public buildings commissioner, we met with them frequently, had almost an unprecedented amount of conversation, but the results are not what we would like to have.

Senator HATFIELD. I appreciate that, Mr. Mecham, because this was the only project in this particular budget cycle in which our project went through every step, every hook, every procedure that was designed and dictated by policy and law. We found it very frustrating.

#### MANDATORY MINIMUM STATUTE

My question is: As we have been talking about crime and we have been talking about police, jails, courts, process, all these things, let me ask you the question whether or not you believe that mandatory sentencing has expedited judicial process or has it hindered it? What is your general comment about mandatory sentencing?

Judge ARNOLD. It isn't expediting the process. I think it is fair to say that we have reservations about mandatory minimum sentencing. Part of it, I suppose, is the natural human tendency that someone whose discretion is being reduced doesn't like it. I try to get beyond that and talk about the policy aspects.

In the first place, it is only mandatory if a certain charge is brought. Discretion is not eliminated from the process. The prosecutor has the unreviewable discretion to decide what to charge somebody with. If the prosecutor doesn't charge you with a crime that carries a mandatory minimum then you are not going to get it.

So, assuming that the prosecutor has charged someone with that crime, when it comes to court, it tends to retard guilty pleas because there is no room for bargaining. For a person who knows that if he is convicted he is going to get a mandatory minimum sentence, there is not a whole lot of incentive to plead guilty.

So that is one aspect of it. Another aspect of it is that it sends people to prison, in some instances, who have no prior criminal history, who did not use a gun, and who were not involved with a large amount of drugs.

The Sentencing Commission has numbers. I am doing this from memory now, but there are something like 3,000 people in Federal penitentiaries who are there for a mandatory minimum term with no prior criminal history, no big involvement with a quantity of drugs, and no use of a firearm in the crime.

Now, I want to say again: If the Congress believes that that is an appropriate treatment of those people, that is the Congress' choice, but we have reservations about it. It seems to us that those prison spaces might better be used for violent criminals, some of whom are not being handled by the State systems.

Senator HATFIELD. Judge, I appreciate your sensitivity to the separation of powers, but by the same token, maybe we have this and I am not aware of it, but we also need an open flow of counsel and information from the judiciary on the matters that relate to this subject, because often we don't know the full impact of those actions we take which we think are sound in of themselves, but you are the implementer.

I don't know about the chairman. As an attorney, the chairman would be, of course, much more sensitive to this than I as a nonlawyer.

Judge WALKER. Senator Hatfield, may I comment on this?

Senator HATFIELD. Sure.

#### MANDATORY MINIMUM GUIDELINES

Judge WALKER. I should also preface any remarks I make on this subject by noting that I am currently president of the Federal Judges Association, and we have taken a position on the issue. I have testified before the Crime Subcommittee on the House side on this question. I would be happy to furnish the testimony.

Senator HATFIELD. Would you send me a copy of your testimony, please?

Judge WALKER. Yes; I will.

Senator HOLLINGS. I'd like a copy as well and will have it submitted in the official hearing record if that is possible.

Judge WALKER. Yes; I will do that.

Senator HATFIELD. Thank you.

Judge WALKER. The point that I tried to make in that testimony was that none of the judges that I am aware of, many of whom have been appointed in the last 15 years or so, are ignorant or not cognizant of the severity of the crime problem and the need for harsh sentences, in particular in cases where drugs and violence are concerned. So the original concern that prompted the enactment of the guidelines, which was a perception that judges were imposing disparate sentences and maybe were too lenient, has largely been met. It has been met by the guideline regime, the carefully thought out bill that was in the works before Congress for many years, over a decade, between conception and enactment.

The guidelines are mandatory. They are mandatory on judges, but they do provide flexibility to deal with the characteristics of the offender and also other circumstances that are traditionally taken into account in sentencing.

Now, a mandatory minimum only looks at one thing, and that is the crime of conviction. It doesn't look at the person's past history; it doesn't draw a distinction between the good person who gets involved in a bad deed that is uncharacteristic of that person and between the bad person who deserves to be appropriately punished. It doesn't draw that distinction.

#### MANDATORY MINIMUM AND DRUG CASES

It also doesn't draw the distinction between the role of the offender in the offense. As you know, it applies in most drug conspiracy cases, and in drug conspiracy cases, you can have large players and small players. I don't think there is a judge in this country that feels that a large player in a drug conspiracy shouldn't feel the full force of the law when it comes to sentencing.

But, you get situations where a small player, who has no real stake, is a hired hand, such as to drive a car or to offload a truck or something of that sort for \$100. Just a hired hand, who would take any job that could pay \$100, is confronted with the mandatory minimum which doesn't reflect the role in the offense.

Or, you get a situation, such as a case that was discussed in the House subcommittee hearings, of a young woman in Alabama, who is 19 years old, a college student whose boyfriend was a drug dealer, and she knew it. She made the mistake, bad judgment, of associating with him, but she was 19 years old. This was her boyfriend and she was loyal to him.

When a customer of that boyfriend came along and wanted to find her boyfriend, because he owed him some money, she made the mistake of passing on the phone number. That cost her 10 years in jail, because she was subject to the mandatory minimum because of the amount of drugs. There is no question about her guilt. She knew what her boyfriend was up to, but she was then all of a sudden in the conspiracy. In that particular case, there were arrests all around. I think five or six defendants were arrested, all much more senior than she. She was the minimal player. But, they had information that the Government could use, so they were able to get out from under the mandatory minimums by cooperating. The only way you can escape the mandatory minimum is if the Government will make a motion for a reduction below the mandatory minimum on the basis of substantial assistance.

This young woman had no information to give up, so she ended up with 10 years in jail, and no one else in the case got more than 5 years in jail.

Senator HOLLINGS. That is a crime in itself.

Judge WALKER. That is certainly the message that we got from the judge who imposed that sentence. I dare say there isn't a judge in this country that wouldn't feel the same way.

Those are the problems, I think, when one tries to deal with sentencing an individual from afar. The judge on the scene is the one best equipped to impose sentence.

#### MANDATORY MINIMUMS AND JUDGES DISCRETION

The other point that I want to make is a point that Judge Arnold just made. That is that as a result of these mandatory minimums, the sentencing process is being driven into the prosecutor's office. The charging decision becomes the sentencing decision.

At that point you have young, often young, often inexperienced, well-meaning prosecutors making judgments about what the sentence is going to be and what it should be in a particular case.

Senator HATFIELD. We could reduce the number of judges in that type of procedure.

Judge WALKER. Indeed, the judges have no discretion. The discretion has been removed from judges.

So the article III appointment process, the approval by the Senate, all of the care that goes into selecting judges is really for naught when it comes to these sentencing decisions.

Senator HOLLINGS. This is covered in that testimony you are going to send us a copy of?

Judge WALKER. Yes. Yes.

Senator HOLLINGS. Very good.

Senator HATFIELD. Thank you, Mr. Chairman.

Senator HOLLINGS. Thank you very much.

[The information follows:]

## LETTER FROM JOHN M. WALKER, JR., PRESIDENT, FEDERAL JUDGES ASSOCIATION

MARCH 7, 1994.

Honorable ERNEST F. HOLLINGS,  
*United States Senate, 125 Russell Senate Office Building, Washington, D.C.*

DEAR CHAIRMAN HOLLINGS: As promised at the Hearing before the Appropriations Subcommittee on Commerce, Justice, State and Judiciary on March 3, 1994, I am enclosing herewith the testimony relating to mandatory minimum sentences that I gave on July 28, 1993 before the Subcommittee on Crime and Criminal Justice of the Judiciary Committee of the House of Representatives.

Very truly yours,

JOHN M. WALKER, JR.

TESTIMONY OF THE PRESIDENT OF THE FEDERAL JUDGES ASSOCIATION, THE HONORABLE JOHN M. WALKER, JR., CIRCUIT JUDGE OF THE SECOND CIRCUIT COURT OF APPEALS BEFORE THE SUBCOMMITTEE ON CRIME AND CRIMINAL JUSTICE OF THE JUDICIARY COMMITTEE OF THE UNITED STATES, HOUSE OF REPRESENTATIVES, WASHINGTON, D.C., JULY 28, 1993

I thank Chairman Schumer and the members of the committee for the opportunity to testify on behalf of the Federal Judges Association, a voluntary organization composed of over 700, about 70 percent, of the nation's Article III circuit and district judges. As those charged with imposing and reviewing criminal sentences in the federal courts, we have first-hand experience with the problems created by the mandatory minimum sentencing provisions passed by Congress in recent years.

Judges share Congress's concern with the serious problems posed to our society by drug-related and violent crimes, as well as Congress's belief that the answer does not lie in shorter criminal sentences. Like many of my fellow judges, I have devoted a substantial portion of my career to law enforcement, first as a federal prosecutor and, immediately prior to my appointment to the federal bench, as an Assistant Secretary of the Treasury, with responsibility for the enforcement of laws against drugs and firearms by the Customs Service and the Bureau of Alcohol, Tobacco and Firearms. Judges do not oppose mandatory minimums because we favor light sentences for convicted criminals. Neither do we wish to return to a time when Congress and the public perceived criminal sentencing as arbitrary, disparate and too lenient. To the contrary, it is precisely because mandatory minimums are undermining Congress's sentencing goals that we favor Congressional re-examination of mandatory minimums.

Congress experimented with mandatory minimums in the Boggs Acts of the 1950's.<sup>1</sup> Then, like today, Congress sought to assure that sentences reflected the gravity of certain types of drug crimes, and to assure that offenders received appropriate sentences. The second Boggs Act set mandatory minimum sentences of two years for a first drug trafficking offense, five for a second, and ten for a third,<sup>2</sup> and mandated a life sentence or the death penalty for the sale of heroin to a minor.<sup>3</sup> Despite the best intentions of Congress, however, the mandatory minimum scheme proved over the next decade to be inflexible and ultimately unworkable. Congress became concerned that mandatory minimums interfered with the ability of judges to make individualized sentencing decisions and "did not result in the expected overall reduction in drug law violations."<sup>4</sup> The Boggs Act sentences were repealed in 1970.<sup>5</sup>

Not long afterwards, in the early 1970's, the idea that judges' sentencing decisions should be governed by a body of law, and not unfettered discretion, was developed by then-Judge Marvin Frankel and others.<sup>6</sup> More than a decade later, Congress enacted the Sentencing Reform Act of 1984, which established the Sentencing Guide-

<sup>1</sup> Narcotic Control Act of 1956, Pub. L. No. 84-728, 70 Stat. 568 (1956), amending Pub. L. No. 82-255, 65 Stat. 767 (1951), repealed by Comprehensive Drug Abuse Prevention and Control Act of 1970, Pub. L. No. 91-513, 84 Stat. 1236 (1970).

<sup>2</sup> Id. at § 103(a), 70 Stat. at 568.

<sup>3</sup> Id. at § 107, 70 Stat. at 571.

<sup>4</sup> S. Rep. No. 613, 91st Cong., 1st Sess. 2 (1969).

<sup>5</sup> See *supra* note 1.

<sup>6</sup> See M.E. Frankel, *Criminal Sentences: Law Without Order* (1973); M.E. Frankel, *Lawlessness in Sentencing*, 41 U. Cinn. L. Rev. 1 (1972).

lines regime that is currently in effect.<sup>7</sup> The Act reflected Congress's appropriate concern that the then-current sentencing approach vested virtually absolute discretion in the hands of sentencing judges whose decisions were for all intents and purposes unreviewable by appellate courts. Congress was distressed that similar offenders who engaged in similar crimes were in many cases receiving vastly different sentences, and that the parole system made it uncertain whether offenders would serve the time to which they were sentenced. However, the Guidelines' framers did not intend to replace the pre-Guidelines regime with rigid mandatory minimums like those Congress had rejected over a decade earlier. As one senator stated, "[a]n inflexible scheme is hardly an improvement on an arbitrary one."<sup>8</sup>

The Guidelines were designed to further three fundamental policy goals: first, to make sentences more predictable by eliminating parole and otherwise insuring that persons engaging in illegal conduct always receive appropriate punishments; second, to promote sentencing uniformity by imposing similar sentences upon similar offenders committing similar crimes; and, third, to promote proportional sentencing by imposing differing sentences dependent upon the severity of criminal conduct.<sup>9</sup> The Sentencing Reform Act directed the establishment of a Sentencing Commission to promulgate the Guidelines, monitor their implementation and interact with Congress as the Guidelines are updated through amendments.<sup>10</sup> The Act for the first time provided for meaningful appellate review of trial court sentencing decisions, thus requiring district judges to make legal determinations and factual findings for review on appeal.<sup>11</sup>

In sentencing a convicted defendant under the Guidelines, a judge determines the appropriate sentencing range on a sentencing grid. The range is determined by two factors: first, an offense level arrived at through examination of the defendant's conduct in relation to the charged offense, including aggravating and mitigating factors, and, second, a criminal history category determined through an examination of the defendant's prior criminal activities, if any.<sup>12</sup>

The Sentencing Commission promulgated the Guidelines and submitted them to Congress for review,<sup>13</sup> as it does all Guidelines amendments.<sup>14</sup> And, in developing Guidelines, the Commission carefully considered and implemented Congress's policy goals. Thus, the Guidelines' criminal history approach reflects Congress's intent that recidivists generally and career criminals specifically receive the most severe sentences.<sup>15</sup> And the offense level calculations reflect Congress's concern that criminals engaged in certain conduct, such as drug trafficking and gun crimes, receive enhanced punishments.<sup>16</sup> The Guidelines are also designed to insure that sentences are both uniform and proportional to the nature of the criminal and his conduct. Sentencing under the Guidelines takes into account such factors as the defendant's role in the offense,<sup>17</sup> the amount of drugs involved in a narcotics crime,<sup>18</sup> and whether an offender caused<sup>19</sup> a serious injury. The Guidelines also consider a defendant's<sup>20</sup> criminal history, as well as his conduct following arrest, requiring en-

<sup>7</sup>Title II of the Comprehensive Crime Control Act of 1984, ch.2, Pub. L. No. 98-473, 98 Stat. 1837 (1984) (codified at 18 U.S.C. §§ 3551-59, 3561-66, 3571-74, 3581-86 and 28 U.S.C. §§ 991-98) [hereinafter "Crime Control Act"].

<sup>8</sup>121 Cong. Rec. S37,564 (statement of Sen. Tunney).

<sup>9</sup>United States Sentencing Comm'n, *Sentencing Manual*, Ch.1., Pt.A, p.s., at 2 (1992) [hereinafter "U.S.S.G."].

<sup>10</sup>See 28 U.S.C. § 991.

<sup>11</sup>See 18 U.S.C. § 3742(a); S.E. Zipperstein, *Certain Uncertainty: Appellate Review and the Sentencing Guidelines*, 66 S. Cal. L. Rev. 621, 621-23 (1992).

<sup>12</sup>See U.S.S.G., supra note 9, at 288 (sentencing table). For a discussion of the mechanics of sentencing under the Guidelines, see B.M. Selya & M.R. Kipp, *An Examination of Emerging Departure Jurisprudence Under the Federal Sentencing Guidelines*, 67 Notre Dame L. Rev. 1, 3 (1991).

<sup>13</sup>See Crime Control Act, supra note 7, Sentencing Reform Act of 1984, § 235(a)(1)(B)(ii), 98 Stat. at 2031-32, as amended by Criminal Law and Procedure Technical Amendments Act of 1986, Pub. L. No. 99-646, § 35(2)(2), 100 Stat. 3592, 3599 (1986).

<sup>14</sup>See 28 U.S.C. § 994(p).

<sup>15</sup>See, e.g., U.S.S.G., supra note 9, at §§ 4B1.1 (career offender guideline), 4B1.3 (criminal livelihood guideline), 4B1.4 (armed career criminal guideline).

<sup>16</sup>See, e.g., id. at § 2D1.1-3.5 (narcotics guidelines); id. at §§ 2D1.1(b)(1), 2D1.11(b)(1) (enhancing narcotics offense levels for weapons possession); see also id. at § 5K2.6 (policy statement concerning departures for use of weapons and dangerous instrumentalities).

<sup>17</sup>Id. at Ch.3, Pt.B.

<sup>18</sup>Id. at §§ 2D1.1(c), 2D1.11(d).

<sup>19</sup>See, e.g., id. at § 2D1.1(a)(2) (where defendant is convicted under enumerated provisions, considering whether death or serious bodily injury resulted from use of drugs); see also id. at § 5K2.2 (policy statement concerning departures for significant physical injuries).

<sup>20</sup>See id. at Ch.4.

hanced offense levels for the obstruction of<sup>21</sup> justice, and lowered offense levels for those offenders who accept responsibility for their crimes.<sup>22</sup>

The Guidelines regime was upheld by the Supreme Court in 1989,<sup>23</sup> and has now been fully implemented. However, at the same time that the Guidelines were enacted and coming into their own, Congress began to enact a series of mandatory minimum sentencing provisions that mirrored the scheme that Congress had previously discarded as unfair and unworkable.<sup>24</sup> Today, there are over 60 mandatory minimum sentences on the books.<sup>25</sup> These mandatory minimums work at cross-purposes to the Guidelines, undermining the very goals of predictability, uniformity and proportionality in sentencing that Congress sought to achieve by enacting the Sentencing Reform Act.

#### PREDICTABILITY

In promulgating the Guidelines regime, Congress sought to promote predictability by insuring that offenders who engage in particular offenses always receive and actually serve appropriate sentences. Predictability in sentencing increases public confidence in the criminal justice system and promotes deterrence. Congress furthered this goal by eliminating parole.<sup>26</sup> And the Sentencing Commission created a regime designed to insure that particular offense levels are consistently applied to particular criminal conduct.

In enacting mandatory minimums, Congress sought to narrow judicial discretion by prescribing flat minimum punishments for certain crimes, like drug trafficking and violent offenses, without regard to the circumstances leading to their commission or any offender characteristics. Congress was trying to insure that favoritism, privilege and bias would play no role in determining what sentence a particular offender received. In supporting a mandatory minimum for the sale of drugs to minors, Senator Phil Gramm stated that all like offenders would pay the same price for their crimes no "matter who your daddy is, and no matter how society has done you wrong."<sup>27</sup>

However, like the mandatory minimum regime of the 1950's and 1960's before it, the mandatory minimum regime of the 1980's and 1990's has failed to function as Congress envisioned it. Rather than furthering predictability in sentencing, the reverse has occurred.

The mandatory minimum scheme vests virtually unfettered discretion in the hands of individual prosecutors. From among the offenders who qualify for mandatory minimums, prosecutors decide on a case-by-case basis who will actually receive them.

First, it is the prosecutor who decides whether to charge a defendant with a crime carrying a mandatory minimum. A 1991 Sentencing Commission study found that, in some 45 percent of appropriate cases, prosecutors choose not to bring charges for carrying a firearm in connection with a violent crime or drug offense,<sup>28</sup> a crime carrying a five year minimum.<sup>29</sup> Second, in those cases where a mandatory minimum offense is charged in the indictment, the prosecutor frequently chooses to drop the charge in connection with a plea bargain.<sup>30</sup> Roughly 85 to 90 percent of criminal cases in the federal courts are disposed of by plea bargain.<sup>31</sup> Finally, only the prosecutor can trigger a court's downward departure from a mandatory minimum sentence in return for a defendant's "substantial assistance" in connection with a crimi-

<sup>21</sup> Id. at § 3C1.1.

<sup>22</sup> Id. at § 3E1.1.

<sup>23</sup> See *Mistretta v. United States*, 488 U.S. 361 (1989).

<sup>24</sup> See, e.g., Crime Control Act, supra note 7, Miscellaneous Violent Crime Amendments, ch.10, § 1005(a), 98 Stat. 2028, 2138 (codified at 18 U.S.C. 924(c); mandatory five year minimum sentence for possession of gun in connection with crime of violence or drug offense, consecutive to any other sentence); id., Armed Career Criminal Act of 1984, ch.18, § 1801, 98 Stat. at 2185 (codified at 18 U.S.C. § 924(e)(1); mandatory fifteen year minimum sentence for felon with three prior violent felony or drug convictions convicted of gun possession in violation of 18 U.S.C. § 922(g)).

<sup>25</sup> See United States Sentencing Comm'n, *Special Report to the Congress: Mandatory Minimum Penalties in the Federal Criminal Justice System* ii (Aug. 1991) [hereinafter "Sentencing Comm'n Report"].

<sup>26</sup> D.J. Freed, *Federal Sentencing in the Wake of the Guidelines: Unacceptable Limits on the Discretion of Sentencers*, 101 Yale L.J. 1681, 1689 (1992).

<sup>27</sup> Cong. Rec. S8,888 (daily ed. June 27, 1991) (statement of Sen. Gramm.)

<sup>28</sup> Sentencing Comm'n Report, supra note 25, at 57.

<sup>29</sup> 18 U.S.C. § 924(c)(1).

<sup>30</sup> See Sentencing Comm'n Report, supra note 25, at 32.

<sup>31</sup> T. Dunworth & C.J. Weisselberg, *Felony Cases and the Federal Courts: The Guidelines Experience*, 66 S. Cal. L. Rev. 99, 109 (1992).

nal investigation.<sup>32</sup> What constitutes "substantial assistance" is often in the eye of the beholder.

Unlike judges' sentencing decisions, which are public and on the record, reported to the Sentencing Commission, and subject to appellate review, prosecutors' decisions are made in private. And the Sentencing Commission study found that, as a result of prosecutorial decisions, about 40 percent of eligible federal defendants did not receive the applicable mandatory minimum sentences.<sup>33</sup>

Some may say that, because large numbers of defendants fail to receive mandatory minimum sentences, the problem is less serious than critics suggest. But uneven application of mandatory minimums undercuts Congress's goals. The current scheme turns prosecutors into de facto sentencing judges—free to be lenient or harsh in particular cases, without explaining, let alone defending, their decisions. And this grant of broad sentencing discretion to prosecutors has inevitably contributed to a heightened perception that influence and power, "who your daddy is"—even in a criminal organization—still determines whether a defendant will receive a reduced sentence.

#### UNIFORMITY

The Guidelines were also a response to the wide-spread concern that similarly situated defendants were receiving very different sentences for similar crimes depending on the judges that heard their cases or the parts of the country in which they were charged.<sup>34</sup> The Guidelines were designed to achieve uniform sentences for like offenders by requiring sentencing judges, whoever they may be and wherever located, to follow the same procedure in arriving at a sentence.<sup>35</sup> In sentencing defendants, judges now uniformly take into account the nature and severity of the crime of conviction, as well as any other relevant criminal conduct, the defendant's role in the offense charged,<sup>36</sup> and the defendant's criminal history.<sup>37</sup>

Mandatory minimum provisions thwart Congress's goal of sentencing uniformity because they are not uniformly applied. Those who have studied their application are convinced that sentencing disparities have increased along with the proliferation of mandatory minimum provisions.<sup>38</sup> The Sentencing Commission study found significant gender and racial disparities in the application of mandatory minimum provisions. Of those eligible to receive mandatory minimum sentences, men are more likely to receive them than women,<sup>39</sup> and non-whites are more likely to receive them than whites.<sup>40</sup>

Even if mandatory minimum provisions were uniformly applied to criminal defendants prosecuted in federal courts, we would be far from achieving the goal of sentencing uniformity. The vast majority of drug and weapons offenses falling within the ambit of federal mandatory minimums are prosecuted in state courts, resulting in different, and often far less severe, punishments. Therefore, those offenders who are sentenced under federal mandatory minimums receive strikingly different sentences from most others convicted for identical conduct.

#### PROPORTIONALITY

Proportionality is a third congressional sentencing goal. The Guidelines created a nuanced scheme to ensure that the severity of a sentence is proportional to the severity of the crime.<sup>41</sup> For example, the Guidelines require a judge to adjust an offense level upward or downward based upon a defendant's role in the offense of conviction.<sup>42</sup> Organizers and leaders receive higher sentences than minor players.<sup>43</sup> And factors such as gun use and injuries to victims are also considered.<sup>44</sup>

Mandatory minimum statutes are much blunter instruments. They fail to take into account the factors that Congress considers essential to fashioning fair and uniform sentences; and the result is similar sentences for offenders who play very dif-

<sup>32</sup> See 18 U.S.C. § 3553(e); U.S.S.G., *supra* note 9, at § 5K1.1.

<sup>33</sup> See Sentencing Comm'n Report, *supra* note 25, at 89.

<sup>34</sup> M.E. Frankel, *Sentencing Guidelines: A Need for Creative Collaboration*, 101 Yale L.J. 2043, 2044 (1992).

<sup>35</sup> See U.S.S.G., *supra* note 9, at Ch.1, Pt.A(2).

<sup>36</sup> *Id.* at Ch.3, Pt.B, intro. comment.

<sup>37</sup> *Id.* at § 1B1.1 (application instructions).

<sup>38</sup> See Sentencing Comm'n Report, *supra* note 25, at ii.

<sup>39</sup> See *id.* at 76–79.

<sup>40</sup> See *id.* at 76, 80–83.

<sup>41</sup> See U.S.S.G., *supra* note 9, at 2.

<sup>42</sup> See *id.* at Ch.3, Pt.B, intro. comment.

<sup>43</sup> See *id.* at § 3B1.1.

<sup>44</sup> See *id.* at §§ 5K2.6, 5K2.2.

ferent roles in offenses, and have differing criminal histories. For example, with respect to drug crimes, the principal mandatory minimum provisions are triggered only by the weight of the drug or mixture.<sup>45</sup> And the same penalties apply whether the defendant is a low-level player or a king-pin.

Moreover, the provisions can have a bizarre "cliff" effect whereby a defendant just above the threshold of a mandatory minimum may face a sharply higher sentence than the fortunate defendant who falls just below it.<sup>46</sup> For example, a defendant convicted of possession of 5.0 grams of crack cocaine faces a maximum penalty of one year in prison, while a defendant convicted of possession of 5.1 grams faces a mandatory minimum of five years.<sup>47</sup>

Even more troubling is the fact that, where mandatory minimums do apply, more culpable participants in criminal schemes, even the most culpable, often receive lower sentences than their subordinates. Examples of this are rife.

One case, brought to my attention last week by the troubled judge, is emblematic of the problem.<sup>48</sup> Nicole Richardson's limited participation in a drug ring consisted of giving her boyfriend's phone number to some of his drug customers and directions during a car chase. The organization's ringleader and his lieutenants each received a substantial assistance motion from the prosecution in return for their cooperation. The longest sentence any of them received was five years, half as long as the otherwise applicable mandatory minimum. Richardson, by far the least culpable of those charged, was unable to assist the Government. She was the only defendant to receive the statutorily mandated ten year sentence. The sentencing judge called Richardson's mandatory sentence "a most glaring miscarriage of justice."

The Federal Judges Association is assembling further examples of cases demonstrating problems arising under the mandatory minimum provisions. I include several letters from district judges setting forth such examples as an appendix to this testimony, and request permission to submit further examples to the committee in the future.

It should be noted that many low-level participants in drug organizations who offload or transport narcotics, known as mules, are aliens who, but for their mandatory minimum sentences, could be deported after serving shorter sentences, making room in prisons—where it costs \$25,000 a year or more to house each prisoner—for more dangerous and culpable criminals.

#### CONCLUSION

Those who support mandatory minimum sentences seek assurance that offenders who commit serious crimes will receive sentences that fit their crimes. The judges of the Federal Judges Association wholeheartedly agree with this goal. However, mandatory minimums do not further it.

In the Sentencing Guidelines, Congress enacted a system to eliminate unwarranted sentencing disparity and lenience. The Guidelines reflect Congress's view of the seriousness of drug and gun crimes, as well as Congress's goal of ensuring that career criminals receive substantial jail time. As a result, wholly apart from mandatory minimums, the days of arbitrary or overly lenient sentencing are over.

In the majority of cases, mandatory minimum statutes do not increase the sentences that judges would otherwise impose under the Guidelines. Yet, in a minority of cases, mandatory sentences simply do not match offenders or their crimes, and can lead to injustices. And, because prosecutors have discretion to nullify mandatory minimums, the most serious offenders often do not feel their impact.

Mandatory minimums frustrate the carefully thought out Guidelines sentencing regime enacted by Congress after years of effort. Thus, the lesson Congress learned in the 1950's and 1960's—that mandatory minimums are not only ineffective, but also counterproductive, weapons in the war on crime—is even more true today

<sup>45</sup> See, e.g., 21 U.S.C. § 841(b).

<sup>46</sup> See Sentencing Comm'n Report, *supra* note 25, at 30.

<sup>47</sup> See 21 U.S.C. § 844(a).

<sup>48</sup> Letter from Judge Howard, Chief U.S.D.J., S.D. Ala., to Judge Betty B. Fletcher, U.S.C.J., 9th Cir., dated July 13, 1993, re: *United States v. Nicole Richardson*, included in the appendix to this testimony.

## APPENDIX

MEMORANDUM FROM JOSE A. GONZALEZ, JR., JUDGE, SOUTHERN DISTRICT OF FLORIDA,  
UNITED STATES DISTRICT COURT

JULY 23, 1993.

To: Hon. John M. Walker, Hon. Betsy Fletcher  
Fr: Jose A. Gonzalez, Jr.

Re: Mandatory Minimum Sentences

Attached is the Judgment In A Criminal Case in *United States of America v. Brenda Valencia*, 91-8107-CR-Gonzalez. The defendant, Brenda Valencia, was convicted of conspiracy to possess with intent to distribute, possession with intent to distribute, and distribution of at least 5 kilograms of cocaine. Pursuant to the Federal Sentencing Guidelines, Miss Valencia received a sentence of 151 months (12 years, seven months).

Miss Valencia had just turned 19 years old at the time of the crime in this case. She was not a "big time" drug dealer. There was no evidence that she was part of a large drug operation or that she had been involved in this type conduct before. It would be an overstatement to call her a "mule," as she was not even a regular courier of narcotics. The evidence at trial showed one thing and one thing only—she drove her aunt to a drug deal. One can be an active member of a crime ring by simply being the driver. Here, however, the evidence showed that Brenda Valencia's aunt asked her to drive because she herself did not drive a car. To add insult to injury, Miss Valencia's sentence was also increased because her aunt had a weapon.

Brenda Valencia was duly convicted by a 12 member jury. Guilt or innocence is not the issue here. The facts proven at trial illustrated that she was "aware" of the situation she was in. Brenda drove her aunt from their home in Miami to a buyer's home in Palm Beach County. The evidence indicated that Miss Valencia knew that a drug transaction was to occur, and she willingly participated. But that is all. She was a minimal participant in this scheme at best, and her record was otherwise unblemished.

The mandatory minimum in this case was 120 months (excluding the gun charge). The enhancement for the weapon was also mandatory. Under the old system, I would likely have given Miss Valencia three years, and then probation. Her participation was minimal, and she had no prior record. I believed then and I believe now that the sentence in this case was extremely harsh. This is an example where a mandatory minimum gave the sentencing judge no leeway to fashion a sentence which fit the crime. To sentence a 19 year old girl to 12½ years for a first offense in which she was minimally involved seems unjust.

I have attached the Judgment in this case. Please note that I felt on April 10, 1992 the same way I feel today: "Even the low-end of the guideline range is an outrage in this case."

UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA V. BRENDA VALENCIA (02), A/K/A MARTHA GONZALEZ,  
#39589-004 (NAME OF DEFENDANT)

JUDGMENT IN A CRIMINAL CASE

(FOR OFFENSES COMMITTED ON OR AFTER NOVEMBER 1, 1987)

Case Number: 91-8107-CR-Gonzalez.

Defendant's Attorney: Robert Duboff, 1925 Brickell Ave., #D-207, Miami, FL 33129;  
Ellen Cohen, AUSA.

The Defendant:

☐ pleaded guilty to count(s)

☒ was found guilty on count(s) one, two and three of the indictment after a plea of not guilty.

Accordingly, the defendant is adjudged guilty of such count(s), which involve the following offenses:

Title and section	Nature of offense	Date offense concluded	Count number(s)
21:846 .....	Conspiracy to possess with intent to distribute at least 5 kilograms of cocaine.	10/8/91 .....	One.
21:841(a) ..... 18:2 .....	Possession with intent to distribute at least 5 kilograms of cocaine.	10/8/91 .....	Two.
21:841(a)(1) ..... 18:2 .....	Distribution of at least 5 kilograms of cocaine .....	10/8/91 .....	Three.

The defendant is sentenced as provided in this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s) \_\_\_\_\_ and is discharged as to such count(s).

☐ Count(s) \_\_\_\_\_ (is) (are) dismissed on the motion of the United States.

☒ It is ordered that the defendant shall pay a special assessment of \$150, for count(s) 1, 2, and 3 of the indictment, which shall be due immediately as follows:

It is further ordered that the defendant shall notify the United State attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid.

Defendant's Soc. Sec. No.: 592-42-9611

Defendant's Date of Birth: 8/18/72.

Defendant's Mailing Address: North Dade Detention Center, Miami, Florida.

Defendant's Residence Address: 5255 West 26th Ave., Hialeah, FL.

Date of Imposition of Sentence: April 10, 1992.

Name and Title of Judicial Officer: Honorable Jose A. Gonzalez, Jr.

Date: April 13, 1992.

#### IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of one hundred and fifty one (151) months as to each counts one, two, and three of the indictment. The sentence imposed as to each count shall run concurrent one to the other for a total term of confinement of one hundred and fifty one (151) months.

The defendant shall receive credit for any time spent in federal custody as to this offense.

☐ The court makes the following recommendations to the Bureau of Prisons:

☒ The defendant is remanded to the custody of the United States marshal.

☐ The defendant shall surrender to the United States marshal for this district,

☐ at \_\_\_\_\_ (a.m.) (p.m.) on \_\_\_\_\_.

☐ as notified by the United States marshal.

☐ The defendant shall surrender for service or sentence at the institution designated by the Bureau of Prisons.

☐ before 2 p.m. on \_\_\_\_\_.

☐ as notified by the United States marshal.

☐ as notified by the probation office.

#### SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of five (5) years as to each counts one, two and three of the indictment. This sentence shall run concurrent, each count, one to the other.

While on supervised release, the defendant shall not commit another federal, state, or local crime and shall not illegally possess a controlled substance. The defendant shall comply with the standard conditions that have been adopted by this court (set forth below). If this judgment imposes a restitution obligation, it shall be a condition of supervised release that the defendant pay any such restitution that remains unpaid at the commencement of the term of supervised release. The defendant shall comply with the following additional conditions:

☒ The defendant shall report in person to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

- ☒ The defendant shall pay any fines that remain unpaid at the commencement of the term of supervised release.
- ☒ The defendant shall not possess a firearm or destructive device.

## STANDARD CONDITIONS OF SUPERVISION

While the defendant is on supervised release pursuant to this judgment, the defendant shall not commit another federal, state, or local crime. In addition:

- (1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- (2) the defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month;
- (3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- (4) the defendant shall support his or her dependents and meet other family responsibilities;
- (5) the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
- (6) the defendant shall notify the probation officer within 72 hours of any change in residence or employment;
- (7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician;
- (8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- (9) the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
- (10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer;
- (11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- (12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- (13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation office to make such notifications and to confirm the defendant's compliance with such notification requirement.

## STATEMENT OF REASONS

Defendant: Brenda Valencia  
Docket No. 91-8107-Cr-Gonzalez

- ☒ The court adopts the factual findings and guideline application in the presentence report.

OR

- ☐ The court adopts the factual findings and guideline application in the presentence report except (see attachment, if necessary):

Guideline Range Determined by the Court:

Total Offense Level: \_\_\_\_\_

Criminal History Category: \_\_\_\_\_

Imprisonment Range: \_\_\_\_\_ months

Supervised Release Range: \_\_\_\_\_ to \_\_\_\_\_ years

Fine Range: \$ \_\_\_\_\_ to \$ \_\_\_\_\_

- ☐ Fine is waived or is below the guideline range, because of the defendant's inability to pay.

Restitution: \$ \_\_\_\_\_

- ☐ Full restitution is not ordered for the following reason(s):

☐ The sentence is within the guideline range, that range does not exceed 24 months, and the court finds no reason to depart from the sentence called for by application of the guidelines.

OR

☒ The sentence is within the guideline range, that range exceeds 24 months, and the sentence is imposed for the following reason(s): Even the low-end of the guideline range is an outrage in this case.

OR

The sentence departs from the guideline range:

☐ upon motion of the government, as a result of defendant's substantial assistance.

☐ for the following reason(s):

☐ The court orders transcript of Statement of reasons be attached.

Date: April 10, 1992.

JOSE A. GONZALEZ, JR.,  
U.S. District Court Judge

## MEMORANDUM

To: Judge Betty B. Fletcher, Immediate Past President, Federal Judges Association.  
CC: Judge John M. Walker, Judge Stanley Brotman  
From: Edwin L. Nelson, United States District Judge, Northern District of Alabama  
Date: July 22, 1993—4:29 pm  
Subject: Congressional Hearings, Mandatory Minimum Sentences

I welcome the opportunity, through the association, to speak to someone in the Congress with regard to mandatory minimum sentences and the injustice sometimes created by them.

In April of this year I was compelled to sentence a young college student with no prior criminal record to ten years imprisonment because of the minimum sentence mandated by law. The defendant, a 21 year old black male appeared before me on April 20, 1993, for sentencing. He had earlier pled guilty to an Attempt to Possess with Intent to Distribute Cocaine Base in violation of 21 USC 846, Use of a Communication Facility in Commission of a Drug Offense in violation of 21 USC 843(b), and Possession with Intent to Distribute Cocaine Base in violation of 21 USC 841(a)(1).

The defendant, in return for promised payment of \$200, agreed to permit another individual to send a package to his apartment via Express Mail which the defendant knew would contain cocaine. He was to have received payment when he delivered the package to another person. The package was intercepted by postal inspectors and found to contain approximately 370 grams of cocaine base. The postal inspectors removed all but 43.5 grams of crack cocaine and the package was then delivered to the defendant's address during a controlled delivery. After the defendant took possession of the package, a search warrant was executed and he was arrested.

The defendant attempted to assist investigators by contacting the person for whom the package was intended, but he was unsuccessful.

The sentencing guidelines yielded a range of 108 to 135 months but, because of the applicable mandatory minimum sentence, I was required to impose a sentence of ten years imprisonment. It is my firm conviction that the defendant's involvement in this criminal conduct was limited to the circumstances I have described. If he had been more deeply involved, this young man could have provided substantial assistance to the government and, very likely, would have benefitted from a motion for a downward departure under Guideline 5K1.1.

Instead, because his involvement was limited, he was unable to help law enforcement officers or himself. In my opinion, the sentence imposed in this case was simply unconscionable. The result will likely be that a young man who, given a reasonable response to his offense by the criminal justice system, might have become a productive and responsible citizen will instead spend eight and one-half years in prison learning how to be a criminal.

I wish you well in this endeavor to return some measure of reason and discretion to the criminal justice system in its response to problems related to controlled substances.

EXAMPLES OF UNJUST SENTENCES UNDER FEDERAL MANDATORY MINIMUM PROVISIONS PROVIDED BY DISTRICT JUDGES TO THE FEDERAL JUDGES ASSOCIATION, JULY 1993

For \$200, a 21-year-old college student with no prior criminal record agreed to permit an acquaintance to mail a package containing cocaine to his apartment. The package, containing 370 grams of cocaine base, was intercepted by postal inspectors. The defendant pleaded guilty and attempted to assist investigators, but he had no helpful information due to his limited involvement in the criminal scheme. The defendant was sentenced to the mandatory minimum of ten years based upon the amount of cocaine involved. (Letter of Judge Edwin L. Nelson, United States District Court for the Northern District of Alabama).

A young legal alien with a wife and two children earned his keep as a "shade-tree" mechanic. A friend, who intended to transport ten kilos of cocaine from California to Texas for \$10,000, asked him to ride along in case the car broke down in exchange for \$1,500. The defendant and his friend were arrested with the ten kilos of cocaine as well as two guns. The defendant knew no one involved in the drug ring other than his friend, and thus could be of no help to the government. He was sentenced to the mandatory minimum of ten years for the drugs involved and a five-year enhancement for the guns. (Letter of Judge Donald E. Walter, United States District Court for the Western District of Louisiana).

The nineteen-year-old defendant drove her aunt, who was unable to drive, to a drug deal. The defendant had no prior record, and her involvement in the drug ring was limited to providing her aunt with the ride. She received a twelve year, seven month sentence by virtue of the ten year mandatory minimum for the amount of drugs involved in the deal, and an enhancement because her aunt had a weapon. (Letter of Judge Jose A. Gonzalez, United States District Court for the Southern District of Florida).

The defendant was the girlfriend of a member of a drug ring operating out of a southern university, and a peripheral member of the ring. The ringleader and his lieutenants pleaded guilty and cooperated with the prosecution and received five year sentences, half the mandatory minimum of ten years. Only the defendant, the least culpable of the charged defendants, received the ten year mandatory minimum sentence. The district judge stated that this was a "glaring miscarriage of justice." (Letter of Chief Judge Alex T. Howard, United States District Court for the Southern District of Alabama).

FEDERALIZATION OF CRIME

Senator HOLLINGS. Senator Stevens.

Senator STEVENS. Mr. Chairman, I am sorry I did not make it here at the time that the Supreme Court justices were here, because I did want to address the problem with them I understand that they raised about turning the Federal courts into police courts. I might say, Mr. Mechem, the two judges in my district, including my chief judge, who I have known for many, many years as a district judge, have been raising this issue with me. I assume that other chief judges in districts throughout the country are doing the same thing.

I guess, Judge, we all come out from our own backgrounds. Mine is the background of a Federal prosecutor, and the one great problem about the situation is that those of us who have been Federal prosecutors recognize the difference between the assets that are available to a Federal prosecutor and those available to a State prosecutor or a local prosecutor.

I don't think we are trying to turn the Federal courts into a police court, but I do think what we are trying to do is to find some way to turn the tremendous apparatus, particularly the Federal investigative apparatus, loose on those who we think are really committing crimes but so far we have not been able to get them into the interstate net of the existing criminal laws.

I know the court system is very disturbed about what some of us are trying to do, but I also think what—and this is why I am sorry I didn't get here to meet with the justices—I think you all have the duty to tell us what we can eliminate from your jurisdiction as we are trying to increase your jurisdiction in terms of the attempt to deal with this very intensive crime rise and with the great problems of terrorism in our country.

You still have Federal jurisdiction over things which we could very easily shift back to the State courts, and out of your jurisdiction, which would balance some of this workload that we are trying to shift to you because we know the assets that are available to the Federal prosecutors; they are not available to the State prosecutors.

Only this morning the FBI announced that they had meetings down in the southwest part of the United States dealing with the great problem of the real crime syndicates coming into our country from China and from many places in Asia.

That type of crime is of the sort that most local prosecutors wouldn't know what hit them, and the only ones that really know will only be able to respond if crimes of that type are in the Federal jurisdiction to start with.

But I do hope that you will understand something: I don't think we want to load the courts to the point where you can't survive, but I do think we ought to find some recognition from the court system itself, that the whole system of justice is evolving. The threats we are really facing now to the whole system are much different than they were in my days as Federal prosecutor and in all our days, all of us, when we were young lawyers.

I think we need some help from you, because I do think the political spectrum wants to increase the emphasis on these crimes that we think are really becoming most destabilizing to the Nation as a whole.

Couldn't we get that from you, too?

#### DIVERSITY JURISDICTION

Judge ARNOLD. Yes, sir; in fact, we have suggested to the Congress that the diversity of citizenship jurisdiction in the Federal courts be either eliminated or curtailed. For example, if the amount in controversy necessary to get you into a Federal court, which is now \$50,000, were increased, that would be helpful to us. If a person who lives in a particular State is not allowed to pick a Federal forum when he brings a lawsuit, and I am talking about bringing a lawsuit against somebody who is a citizen of another State, what we call in-State plaintiffs, there is no reason for those people to have a choice of the Federal forum. They are not subject to whatever this alleged prejudice of State courts might be against outsiders.

We don't see why the diversity jurisdiction should include lawsuits brought by in-State plaintiffs. Those would be changes in our jurisdiction that we think would be helpful, and the Judicial Conference has taken that position.

## DEATH PENALTY

Senator STEVENS. I thank you for that. I have been waiting for this crime bill to pass because we, too, would have in that some of the changes required by Supreme Court decisions to make it possible for us to enforce the existing death penalties.

Judge ARNOLD. Yes.

Senator STEVENS. We have some death penalties we want to impose. I understand the judiciary has some questions about that. I believe the recent spy case shows the real, real need for the reinstitution of the death penalty in connection with those spy cases, which, to me, are treason. I understand we are not treating them as treason anymore, but I do think we have got a great many things that we ought to be changing, but we ought to be working together.

I sense that, because of the difference in our basic powers in the Constitution, that this separation of powers is putting a moat between us and we are throwing stones across. I have never viewed it that way. I thought we were both in the same harness and that the troika ought to be going forward and not fighting with each other all the time. But it does seem to me that we are getting from our good friends criticism of what we are trying to do.

I have supported the concept of trying to make certain that use of a gun in a felony in which there was a death ought to be a Federal case. I take it that the judiciary doesn't agree with that.

Judge ARNOLD. We have reservations about it. Let me explain, for example, with respect to the death penalty. Again, because my portfolio is the money, I may be fixated on that.

Senator STEVENS. That is supposed to be our portfolio too, here. That is why I am talking about reducing some of your load at the same time we are increasing it.

## COST OF DEATH PENALTY CASES

Judge ARNOLD. Death penalty litigation is very expensive. It is probably the single most expensive kind of case because the Government has to fund both sides of it. Typically, the people who are charged with a capital crime don't have the money to pay their own lawyer. Unlike normal criminal cases in the Federal courts, there is no limit on the hourly rate that can be conferred on death penalty-appointed counsel, and there is no limit on the amount per case.

Senator STEVENS. There is no what?

Judge ARNOLD. There is no limit, there is no statutory amount on the hourly rate.

Senator STEVENS. Of a court-appointed counsel to defend someone accused of a death penalty?

Judge ARNOLD. Yes, sir.

Senator STEVENS. I have got a firm memory that just dropped back in my mind. I defended my court-appointed three young men who committed a rape on a Federal reservation in the sixties when the penalty was death. We didn't get any compensation.

Judge ARNOLD. The last one I handled I got \$250.

Senator STEVENS. You say we have not allowed you to put any limit on that in terms of court appointments now?

Judge ARNOLD. By statute, the normal hourly limits and the normal per case limits on payments to impanel attorneys do not apply to death penalty cases.

Senator STEVENS. I think we should change that. I will look into that.

Judge ARNOLD. That has been the law for 6 years.

Senator STEVENS. Thank you for mentioning it.

Senator HOLLINGS. The bottom line, if the distinguished Senator would yield, because you weren't here, and I won't elaborate much other than the fact that—

Senator STEVENS. Am I duplicating? I am sorry if I am.

#### FEDERAL JURISDICTION

Senator HOLLINGS. No; what we are asking the good judge friend here to do is please save us from our own political dilemma. The need is to have men and women rather than these pollster puppets here in the national Congress. I can guarantee you, I can put in any crime and go up on the floor and get an "aye" vote for it. Why is that?

Did you see when the poor gentleman left, his staff jumped up quick and took his nameplate? Now, if he hadn't taken his sign, somebody could take a film of the sign there and the man not sitting behind it and say, "See, the Senator is not attending to his work." It has gotten silly around this town. Right to the matter of crime. A fellow who has got a weak record on it or something, the staff says, "You know, you are not looked upon strong on crime. Let's find out which one we can make into a Federal statute: If you ride by with a gun; or if a death occurs; or a theft occurs; or if you have got a knife or if you have got this or that," I can take any crime, any crime and go up on the floor of the U.S. Senate and get a majority vote.

The distinguished Senator says, "Help save us so we can save the courts," and I voted against them and have gotten criticized. I don't know if you are aware of it. I just gave the example about murder. It is a common law crime; it should remain a State prosecution.

But if you went up on the floor and said, "Let's make all murders a Federal crime," and I voted against it, I can see the little squib in my next campaign. "Hollings votes for murder. I mean, he's soft on crime."

It is just stupidity. So if you can save us from our pollster puppeteering, it would be very helpful. That is what you are really asking the court to do.

Senator STEVENS. I am asking them to do a little bit more than that, I think, Mr. Chairman. I am asking them to look over the whole. I, for instance, have suggested reducing the civil jurisdiction load.

Senator HOLLINGS. Any suggestion. I respect the sincerity of your question, but I have seen this and been up on the floor and watched it over the years. It is getting worse and worse.

Judge ARNOLD. I might say to Senator Stevens just briefly that we are working on this. We do want to work with the other branches of Government, and the Attorney General. We meet regularly with the Attorney General and she has been very responsive to us. On Monday we are having a meeting here in Washington

with Members of Congress, the Attorney General, other people from the Justice Department, and members of the judicial branch to talk about these very issues that you are raising.

If there is any way that we can be helpful to the Congress, give you information, whatever you need, we want to do it.

Senator HOLLINGS. Very good. Excuse me.

#### PROSECUTORIAL DISCRETION

Senator STEVENS. No; I am almost finished. I was looking at the jurisdiction of this committee in terms of workload, and it does seem to me, Judge, you mentioned the fact that when we have the minimum sentences that it is a difficult thing for the judiciary. As a prosecutor, I have got to tell you: If you can charge a person with a crime that is a very serious offense and has a very high minimum sentence, it is possible to lead to plea bargaining and have the prosecutor be able to charge that person with a lesser crime later and particularly get great cooperation in the drug area.

I think it has been one of the tools that the prosecutors have used in order to try to get to the drug supply.

#### DRUG CASES IN FEDERAL COURTS

The drug problem, I think, is the worst problem in the country, and I wonder: What is your feeling about the help that you are getting in terms of dealing with the load that comes to you from the drug cases? Have we overloaded you too much with drug cases now, too?

Judge WALKER. There are a substantial number of drug cases. As you have pointed out, there is an international aspect and an interstate aspect to drug trafficking that is wholly appropriate for the Federal Government to address. Indeed, the Federal Government has addressed it as a matter of policy for many, many years, particularly when you are dealing with the large rings and the interstate and the international rings.

Senator STEVENS. I am glad to hear you say that. Mr. Chairman, I won't prolong it. I would just hope that in your discussions with the judicial people I would hope you explore with them the things that we might do to lessen your workload. I agree with the chairman: I think it is beyond control right now. The crime bill is going to give you more jurisdiction.

Our job ought to be to see to it that we balance that off so that you are not underfunded. I don't see much more money coming out of the system right now.

Senator HOLLINGS. The politics of the approach ought to be understood by the judiciary, namely, that was an \$11 billion bill one morning, and our good friend up in New Jersey lost and somebody said, "Well, wait a minute. He wasn't strong enough on crime," and by 9 o'clock in the morning, being an \$11 billion bill, Mr. Mecham, by 11 o'clock that night, it was \$22 billion.

Senator STEVENS. Doubled it.

Senator HOLLINGS. Yes. Yes; it is hit-and-run driving up here, identifying, and, of course, the bottom line is we have got \$242 billion this year that we don't have that we are going to spend. The States don't have that luxury. As we offload to get up solid waste, do this, do that, answer this, answer that, that is why you have

got the Governors marching into town saying, "For God's sake, don't give us any more unfunded mandates," because we are off-loading all those mandates so they have to take away from law enforcement and from the prisons.

Yes, sir?

#### PROBATION AND PRETRIAL SERVICES

Judge WALKER. Senator, there is one area in which we are asking for an increase, the number of probation officers.

Senator HOLLINGS. Go ahead.

Judge WALKER. The reason is to try to bring the probation officers up to 86 percent of their workload formula from around 79 or 80 percent now. One of the important points to make is that it will enable a greater degree of postrelease supervision of defendants who are released. It is a crime prevention measure to follow up on the supervision of those you have identified, and who are likely to commit crimes. They have been in jail; they are the ones in need of supervision as they are released.

Senator HOLLINGS. Mark it down. We will see what we can do to put it in there.

Judge WALKER. That is an important part of our request.

Senator HOLLINGS. Very good, Judge Arnold, Judge Walker, Mr. Mecham. We really appreciate your appearance here this morning. It has been very helpful.

#### ADDITIONAL COMMITTEE QUESTIONS

I have a series of questions to submit for myself, Senator Hatfield, and some of the other members who had conflicts and could not attend, but we appreciate it.

[The following questions were not asked at the hearing, but were submitted to the courts for response subsequent to the hearing:]

#### QUESTIONS SUBMITTED BY SENATOR ERNEST F. HOLLINGS

##### DECREASE IN BANKRUPTCY FILINGS

*Question.* After several years of increase, bankruptcy filings have begun to decline. In 1993, bankruptcy filings dropped 7 percent to a level of 910,000, and they are estimated to drop another 8 percent in 1994 to a level of 840,000.

While the fiscal year 1994 Judiciary Appropriations Act provided the funding necessary to hire all 35 newly authorized bankruptcy judgeships requested in last year's budget, recognizing this downward shift in bankruptcy filings, we included language suggesting that the Judicial Conference reexamine the caseloads in each district to determine if the new judgeship should be filled at this time.

As a result of this reexamination of caseload and corresponding need, has any district decided not to fill the new bankruptcy judgeship? If so, how many?

*Answer.* In light of declining caseloads, the Fifth Circuit Judicial Council has recently decided to keep vacant the newly authorized judgeship positions in the Northern and Western Districts of Texas. Subsequent to the hearing we learned that one other circuit judicial council has also decided to keep a newly authorized position vacant at this time.

Moreover, recognizing that bankruptcy judge vacancies occur and that bankruptcy caseloads are declining in certain districts, the Executive Committee of the Judicial Conference has requested that the courts of appeals examine carefully these new vacancies as they occur and determine that each judgeship is essential before a replacement is sought. The Administrative Office is providing assistance to circuit judicial councils in determining whether a currently, or soon to be vacant, judgeship should be filled.

Lastly, the Judicial Conference Committee on the Administration of the Bankruptcy System is in the process of conducting a Congressionally-mandated review

of the continuing need for each authorized bankruptcy judgeship nationwide as required by the law authorizing the 35 new bankruptcy judgeships.

*Question.* I note where you have included \$1.9 million in your base to support an average of 10 months of the cost of 35 new bankruptcy judges. Shouldn't this increase in your base be reduced to reflect the districts that have decided not to fill the newly created bankruptcy judgeships? What about those districts that have not yet brought their new bankruptcy judge on-board? Can we reduce the base request by the number of judges not on-board for 10 months of the fiscal year? Any idea what the savings would be?

*Answer.* The base adjustments in the fiscal year 1995 budget include \$1.9 million to annualize the cost of the bankruptcy judges salaries and benefits and operating costs, and \$1.1 million to annualize the salaries and benefits of the judges supporting staff, for a total increase of \$3.0 million. This increase was based on the cost of 35 judgeships annualized for an average of 2 months (funding for an average of 10 months was provided in fiscal year 1994). Two of the 35 judgeships will not be filled in fiscal year 1994 as a result of a downturn in filings. The filings in these districts will be monitored to determine whether there will be a need to fill these judgeships in fiscal year 1995. The delay in filling the judgeships in fiscal year 1994 results in a potential savings of \$1.1 million, and, if the judgeships are not filled in fiscal year 1995, a savings in annualization costs of \$0.4 million. However, if the judgeships are filled in fiscal year 1995 the funding for the judgeships will still be required.

*Question.* I note where you have requested an increase of \$1.4 million to support the cost of recalling 6 bankruptcy judges and the 20 additional support staff to assist them.

With bankruptcy filings on the decline, why have you requested this increase in the number of recalled bankruptcy judges and accompanying support staff?

*Answer.* Bankruptcy filings have increased by 158.9 percent in the last nine years, while the number of authorized bankruptcy judgeships has increased by only 40.5 percent.

With weighted caseloads having soared (even when factoring in the decline experienced in fiscal year 1993) in a number of districts, the addition of a recalled bankruptcy judge allows the district to better manage its existing work load and the individual judge to perform judicial functions in a timely, efficient manner.

Because there is a lag time between the time additional judgeship needs are identified and Congressional authorization of additional judgeships, recalled bankruptcy judge positions provide an essential, cost-effective, timely way to provide judicial resources and help courts administer their increasing caseloads during these interim periods, at very low cost to the Judiciary.

For those districts not able to justify new judgeships, it provides an inexpensive method of handling a growing caseload as opposed to using visiting judges who often require the payment of per diem and travel reimbursements.

It is anticipated that six additional recalled judges and the accompanying support staff will be required to assist the regular judges handling the court docket in fiscal year 1995.

#### FILLING OF NEW MAGISTRATE POSITIONS

*Question.* I note where you have requested an increase of \$6.7 million to support 12 new magistrate judge positions, the conversion of 2 part-time magistrate judge positions to full-time, and 55 supporting personnel. Since caseloads for matters traditionally handled by magistrate judges (misdemeanor offenses, various preliminary criminal proceedings, and civil consent cases) declined or remained constant from 1992 to 1993, why do you need additional magistrate judges? Will the addition of these magistrate judges save money in the long run or just ease the workload on district judges?

*Answer.* The Civil Justice Reform Act (CJRA) has increased pressure on the courts to address their civil caseloads, emphasizing improved case management practices. The magistrate judges system has become an indispensable tool for meeting the demands on the district courts, including those resulting from CJRA. The availability of magistrate judges helps the courts to provide effective access to justice, including the opportunity to resolve disputes without undue hardship, cost, inconvenience or delay. Overall, the increased magistrate judge resources are requested to assist courts in implementing the CJRA.

As a result of caseload demands and natural limitations on the growth of the Article III judiciary, district courts will continue to look to magistrate judge positions to keep the federal court system afloat. The workload of the district courts continues to increase as a result of case complexity and the number of criminal defendants.

In districts with heavy criminal caseloads, the district judges may have little or no time to hear civil cases. As a result, the courts are increasingly relying on magistrate judge assistance to keep the civil dockets moving.

Magistrate judges help to ensure meaningful access to the federal courts by: (1) assisting district judges in handling increasing caseload demands; (2) providing supplementary judicial resources to meet the ebb and flow of demands made on the Judiciary; (3) providing a high standard of justice at the point where many individuals first come into contact with the courts; and (4) increasing the overall efficiency of the federal judiciary by relieving district judges of some of their burdens.

Magistrate judges perform valuable judicial functions for the district court which would otherwise have to be performed by Article III district judges. But that is not to say magistrate judges replace the need for district judges. Magistrate judges and district judges are complementary—not fungible—judicial resources. Magistrate judges are adjuncts of the district courts, supplementing but not supplanting district court judges. Additional magistrate judge positions have enabled the courts to deal more effectively and efficiently with the increased caseload demands brought on by the Civil Justice Reform Act, the Sentencing Guidelines, and the more complex and time-consuming cases.

*Question.* The appointment of Article III judges requires confirmation by the Senate. What are the requirements and the process of selection for magistrate judges? On average, how long does it take to bring a new magistrate judge on board? Does your request fund these new positions for the full year?

*Answer.* Magistrate judges are appointed by majority vote of the judges of the district court upon the recommendation of a citizen merit selection panel. Full-time magistrate judges serve for a term of eight years, while part-time magistrate judges are appointed for a term of four years.

Pursuant to statute and regulations of the Judicial Conference, there are two basic requirements for the appointment and reappointment of magistrate judges: (1) public notice of all vacancies to be filled and of all pending reappointments; and (2) the convening of civilian merit selection panels to assist the district courts in identifying candidates and appraising performance.

In the case of an original appointment to a full-time magistrate judge position, the citizen panel screens applicants and submits a list of five qualified candidates to the district court. The court may either choose its magistrate judges from the list submitted or it may request the panel to submit a second list of five names. After the court has made its selection, the nominee must undergo an FBI full-field investigation and an IRS tax check. A nominee for a part-time magistrate judge position must undergo FBI and IRS file checks.

In the case of a reappointment of a sitting magistrate judge, the role of the merit selection panel is to review the performance of the incumbent and to recommend to the district court whether or not the individual should be reappointed to a new term of office.

The time between establishing the need for a magistrate judge position, having the position approved, and filling the position varies from one to two years, depending upon when a court initiates its request for a new magistrate judge position. It takes approximately six months for a court to complete the actual selection and appointment process. It begins with the public notice of the position vacancy. As noted above, the merit selection panel then examines the applications of potential nominees and may, in its discretion, interview candidates. Within ninety days of its creation, the panel must report to the court. An additional three months are needed to complete the nominee's FBI full-field investigation and IRS file check.

New positions are funded for three-quarters of the year in the 1995 budget request. This estimate allows for variations in the length of time it takes districts to fill the position as well as the time at which they begin the selection process. Courts are permitted to begin the selection process prior to the beginning of the fiscal year in which funding for the positions is anticipated, with the full knowledge that appointment is subject to the availability of funds. Courts that start the process early enough may be ready to appoint a magistrate judge by the beginning of the fiscal year, or shortly thereafter. Other courts experience delays and may not be ready to appoint a magistrate judge until later in the fiscal year.

#### DEFENDER SERVICES

*Question.* As I said in my opening remarks, the Judiciary's budget submission is significantly scaled back in comparison to years past. In particular, is the change requested for Defender Services.

Last year, you requested a \$172 million or 80 percent increase in funding for the Defender Services account—which of course included a supplemental of \$70 million.

We were able to work with you and scale back the supplemental by some \$20 million and, in the end, we scaled back your fiscal year 1994 request by another \$80 million.

Yet still, I see where you expect to carryover \$14.7 million from fiscal year 1994 into fiscal year 1995 in the Defender Services account. Does this carryover account for the relatively small requested increase of \$10 million or 4 percent for this account this year? Or, do your current projections reflect a leveling off in the growth of the Defender Services Program?

Answer. The Judiciary originally requested \$387 million for Defender Services for fiscal year 1994. This would have represented a 36 percent increase over the projected fiscal year 1993 expenditures of \$285 million. However, due to a leveling off in the increase in the number of Criminal Justice Act (CJA) representations and the workload associated with such cases, both the fiscal year 1993 expenditures and the fiscal year 1994 projected expenditures are less than originally forecast.

The fiscal year 1994 appropriation totals \$280 million, and the projected expenditures total \$286,275,000. \$6,275,000 of the projected expenditures will be funded out of the carryover of unobligated fiscal year 1993 funds that totaled \$21 million. In fiscal year 1995, these funds will have to be restored to the base appropriation. The cost of restoring the base will be offset by \$14,725,000 in obligated funds that will be carried forward into fiscal year 1995, leaving a balance of \$8,450,000 to be applied to fiscal year 1995 increases.

Expenditures under the Defender Services appropriation are expected to increase from \$286 million in fiscal year 1994 to \$305 million in fiscal year 1995, or 7 percent. Due to the carryover of fiscal year 1994 funds, however, the Defender Services appropriation request reflects only a small increase from \$280 million to \$290 million, or 4 percent. Therefore, the relatively small requested increase of \$10 million is a function of both the fiscal year 1994 carryover and the leveling off in the growth of the Defender Services Program.

It is important to note, however, that the Defender Services appropriation supports the provision of constitutionally required criminal defense services to persons charged with crimes in federal court. Demand for services is solely a function of actions initiated by users of the court system and the need to guarantee individuals' Constitutional rights. Policies and actions of the United States attorneys determine the number, type and nature of criminal prosecutions. The Judiciary is obligated to furnish representation to financially eligible persons in those cases. Increased requirements for the Defender Services appropriation are thus reactive and, therefore, largely uncontrollable by the Judiciary.

Current legislation pending before Congress, including the pending crime legislation, could have a significant impact on the resources required for the Defender Services Program. In addition, federalization of crimes previously tried in state courts by either Department of Justice prosecutorial policies and initiatives or congressional legislation has a profound impact on the number, complexity and cost of CJA cases.

*Question.* The justification indicates that 9 reimbursable positions have been created to provide audit and oversight functions for the Defender Services Program. What specific functions will these persons perform and to whom will they report?

Answer. Recent dramatic increases in the cost of providing Constitutionally mandated representation in federal criminal cases have focused attention on the need to ensure meaningful scrutiny of expenditures associated with these services by both private attorneys and defender organizations. Recognizing this critical need, the Judiciary sought and received congressional authorization to use Defender Services appropriation funds to create nine "reimbursable" positions to be located in the Administrative Office of the United States Courts (Administrative Office). These positions are to be devoted primarily to analysis and review of activities of panel attorneys and federal defender organizations (including death penalty resource centers) in order to ensure the cost effectiveness and proper operation of these components of the federal defender program. These nine positions will be located in the Defender Services Division of the Administrative Office and will report to the Chief of the Division.

*Question.* The justification (p.6.14) also indicates a number of additional steps have been taken to control costs and to analyze workload and costs. Could you provide more specific information on the exact steps undertaken in each of these areas?

Answer. Consistent with Congressional and Executive Branch commitments to reduce federal spending overall, the Judiciary has implemented a number of cost containment initiatives to improve controls over Criminal Justice Act (CJA) expenditures, including the following:

—*Controlling Defender Organization Costs—Reviews and Audits.*—In order to help ensure that CJA expenditures are limited only to those necessary to ensure

meaningful representation, the Judiciary is taking a number of steps to improve the review and audit of CJA expenditures by defender organizations. These measures also can help address congressional concerns regarding the quality of data available to support CJA workload analyses and projections. These measures include, but are not limited to:

- (1) Establishment of a reimbursable program within the Administrative Office of the U.S. Courts to provide critically needed administrative and management support for the Defender Services Program.
  - (2) Implementation of financial audits for federal public defender organizations and Administrative Office review of the audits currently performed by independent certified public accountants for community defender organizations.
  - (3) Imposition of new financial and statistical reporting requirements upon federal defender organizations, including monthly workload reports and quarterly financial reports.
- Controlling Defender Organization Costs—Spending Restrictions.*—The Judiciary has imposed the following spending restrictions on federal defender organizations:
- (1) *Personnel.*—All assistant federal defender salary increases must be reduced by 50 percent during fiscal year 1994. In addition, quality step increases for graded employees have been suspended.
  - (2) *Travel.*—Claims for reimbursement of expenses are limited to the per diem rate, or actual expenses may be claimed if they do not exceed the applicable per diem rate.
  - (3) *Training.*—Expenditure of funds (travel and tuition) have been limited to those associated with attendance at core training programs. In addition, federal defenders' authority to commit personnel and financial resources to other training programs has been suspended.
  - (4) *Furniture and Equipment Acquisitions.*—Except for previously executed binding commitments, emergency replacements, and acquisitions for new positions, new organizations and new branch offices, expenditures for equipment must be deferred.
  - (5) *Tenant Alterations.*—Expenditures are limited to emergency or ongoing projects, and to work related to new positions, new organizations or branch offices.
- Controlling Defender Organization Costs—Death Penalty Resource Centers.*—In addition to reevaluating the resource center concept, the Judiciary has asked resource centers to reduce their costs and is requiring them to satisfy the demand for their services in fiscal year 1995 while limiting spending to fiscal year 1994 levels.
- Controlling Panel Attorney Costs—Establishment of New Defender Organizations.*—Federal defender organizations consistently provide high quality representation and, on a national level, are more cost effective than relying on the services of panel attorneys. Therefore, an increase in the number of defender organizations reduces the number of private panel attorney representations and the overall cost of providing services under the CJA.
- Controlling Panel Attorney Costs—Panel Attorney Rates.*—In response to Congressional concerns over the limited funding available to meet CJA requirements and in order to assist Congress in its efforts to reduce governmental spending overall, the Judiciary does not intend to implement the \$75 per hour rate in fiscal years 1994 and 1995 in the 72 districts for which that rate has been approved but not yet implemented and; therefore, is not seeking any fiscal year 1995 funds for this purpose. The Judiciary is instead seeking a small (1.6 percent) increase in panel attorney compensation in the 72 districts.
- Analyzing Workload and Costs.*—Eighty-one percent of the funding required for the Defender Services appropriation supports compensation of attorneys and others providing services under the Criminal Justice Act. This makes it difficult to achieve substantial cost savings in the Defender Services appropriation without addressing efficiencies in work performance. Such initiatives are underway. At the request of the Economy Subcommittee of the Judicial Conference Budget Committee, the Administrative Office is preparing to conduct a work measurement study of the Defender Services Program. The goals of the study are to: (1) develop a work measurement formula for federal public and community defender organizations which can be used to assess the staffing requirements of defender organizations; and (2) develop benchmarks for the hours required for each major type of case to aid judicial officers in reviewing panel attorney compensation claims.

## DEFENDER ORGANIZATIONS VS. PANEL ATTORNEYS

**Question.** Recognizing that federal public and community defender organizations cost, on the average, about \$1,167 or 32 percent less per representation than panel attorneys, last year this Committee recommended that The Judiciary establish defender organizations in all organizations where an organization would be cost-effective. What efforts has the Judiciary made to implement this recommendation? Has your increased utilization of federal defender organizations versus panel attorneys affected the cost of the overall Defender Services Program? Do you foresee a point where the increased utilization will no longer be cost-effective?

**Answer.** The Judiciary increased the number of districts served by a defender organization from 55 in fiscal year 1992 to 57 in fiscal year 1993. The Judiciary is projecting that at least 10 additional districts will be served by defender organizations in fiscal year 1994 and that an additional six districts will be served in fiscal year 1995.

In addition, the Judiciary has transmitted to Congress proposed legislation that would amend the Criminal Justice Act to require establishment of a defender organization in any district (or part of a district or combination of districts) in which (1) more than 200 persons annually require the appointment of counsel; or (2) the Judicial Conference determines that such an organization would be cost effective; or (3) the interests of effective representation otherwise require establishment of such an organization. The statutory criteria for establishing defender organizations are set forth in subsection (g) of the Criminal Justice Act (CJA). 18 U.S.C. § 3006A(g). The CJA currently provides for the establishment of a federal public defender or community defender organization in any district, part of a district, or combination of adjacent districts or parts of districts, in which at least 200 persons annually require the appointment of counsel.

The increased utilization of federal defender organizations versus private panel attorneys has decreased the overall cost of the Defender Services Program. Federal defender organizations consistently provide high quality representation and, on a national level, are more cost effective than relying on the services of panel attorneys. Therefore, an increase in the number of defender organizations reduces the number of private panel attorney representations and the overall cost of providing services under the CJA. The funding requested for the panel attorney activity in fiscal year 1995 has been reduced in anticipation of establishing new federal defender organizations and shifting cases from panel attorneys to assistant federal defenders at a lower average cost per case.

As in prior years, in fiscal year 1995 the national average defender organization cost per representation is projected to be lower than the panel attorney average cost per representation. However, because panel attorney rates have been increased in only 16 of the 94 judicial districts since 1984, the panel attorney cost per case in some districts not currently served by a defender organization is less than what would be the projected cost per representation for a defender organization, were one to be established. This is especially true for those districts with a relatively low CJA caseload and geographically distant places of holding court.

Although the cost per representation in these districts would be higher with a defender organization than with sole reliance upon panel attorneys, many courts have requested establishment of a defender organization because of concerns that range from general dissatisfaction with the inconsistent quality of representation and the availability of qualified counsel, to specific complaints about the departure of experienced attorneys from the CJA panel, panel attorneys' lack of knowledge of the Sentencing Guidelines, and the need to appoint attorneys without adequate federal criminal law experience. In addition, federal defender organizations assist the courts by reducing judicial workload and costs associated with administering the CJA panel and reviewing and processing CJA attorney and expert compensation and reimbursement claims.

The current panel attorney compensation rates are proving too low to attract panel attorneys with the skill and knowledge required to provide defense services in a modern federal criminal prosecution, and establishing a defender organization is the only practical alternative to increasing the rates to a level necessary to attract qualified panel attorneys.

## PROBATION AND PRETRIAL SERVICES STAFFING

**Question.** I see where you have requested an increase of \$73 million and 584 positions for probation and pretrial offices. In your budget in brief, you note that your requested increase "would be used primarily in the monitoring and supervision of offenders and defendants that have been released into the community".

Yet, when comparing the number of persons expected to be supervised by probation officers in 1993, 1994, and 1995 the rate of increase is relatively small in comparison to your dollar increase.

1993 .....	86,292
1994 .....	89,400
1995 .....	91,300

That's a 3.6 percent increase in the number of persons to be supervised between 1993 and 1994, and a 2.1 percent increase from 1994 to 1995. But, you have requested a \$73 million or 17 percent increase over fiscal year 1994. Could you please explain the discrepancy?

Answer. The workload has risen steadily for a number of years but the allocation of positions has not kept up. For example, in fiscal year 1993, the system received no new positions at all. In fiscal year 1994, the probation and pretrial services system is funded at only 80 percent of staffing requirements, according to workload formula.

The fiscal year 1995 request includes resources to increase staff levels to 86 percent of requirements by adding 584 new positions. This compares to the 1,700 new positions that would be required to reach 100 percent of requirements. The Judicial Conference determined not to request full staffing in the interest of fiscal restraint.

#### USE OF ALTERNATIVE CONFINEMENT

*Question.* Has the Judiciary increased its use of alternative pretrial detention programs, such as home detention with electronic monitoring and halfway houses?

If the use of alternatives has increased, what has been the savings achieved?

Do you have any statistics on the incidence of new offenses committed by detainees included in such jail alternatives?

Answer. In 1990, the Judicial Conference adopted a resolution concerning the "crisis" in pretrial detention and encouraged the development of alternatives to incarceration to reduce the pretrial detention population and allow jail space for those whom the court has no choice but to detain. In addition to offering supervision, pretrial services offers such alternatives as electronic monitoring, halfway houses, substance abuse testing and treatment, and mental health treatment.

The national average daily costs for home confinement with electronic monitoring and halfway house placements during this same time period was \$19 and \$43 respectively. This represents a substantial savings when compared with the average daily incarceration rate of \$55.

Total expenditures for contractual alternatives to detention for fiscal year 1993 were \$7,683,000. In fiscal year 1994, a total of \$8,421,000 is available. For fiscal year 1995, only an inflationary increase is requested.

Overall, in fiscal year 1993, there were 29,196 defendants released pending trial and 5,561 violations of release conditions. In about half (2,682) of the violation cases, the pretrial services officer reported use of drugs by the defendant. Most of the rest were for violating reporting conditions. In 575 cases (2 percent), the defendant was rearrested and charged with a felony; in another 383 (1 percent), the defendant was rearrested and charged with a misdemeanor.

In fiscal year 1993, a total of 1,215 defendants were released under electronic monitoring and 54 (4.4 percent) violated that condition.

#### STAFFING EQUALIZATION

*Question.* Last year the committee became aware of staffing disparities among the various judicial districts and suggested in the conference report that the Judicial Conference examine the staffing levels and comparative workload of each district.

As a result, I believe the Judicial Conference has authorized a staffing equalization plan that seeks to reduce offices that are over and increase those that are under with the goal of attaining 86 percent of the staffing formula by year's end all across the board.

I commend these efforts in that I realize some offices were 125 percent of your established formula while others were at only 65 percent of formula. But, there seems to be an effort here to also increase staffing overall.

This goal of 86 percent of staffing formula is an increase over the 80 percent of staffing formula you have been using for probation/pretrial offices and the 84 percent of staffing formula you have been using for clerks offices. What would the impact be if you equalized staffing to only 84 percent?

(That would be an increase in probation/pretrial staffing and a freeze in clerks offices. Yet by carrying out the equalization plan, those offices most in need could still hire up and not be frozen.)

Answer. While 86 is a larger number than 84 or 80, these percentages are not comparable because they represent different things.

The Judiciary is seeking 86 percent of required resources for fiscal year 1995. Resources for fiscal year 1995 are based upon a higher level of workload projected for that year.

Staffing allocations for fiscal year 1994, which were based upon actual workload, were issued to clerks offices and probation/pretrial offices in December 1993. At that time, the clerks offices in the aggregate were staffed at 90 percent of work measurement formula and probation/pretrial services offices were staffed at 77 percent.

The fiscal year 1994 staffing allocations for clerks offices and probation/pretrial services offices are 84 percent and 80 percent of their respective formulas. This means that understaffed clerks offices can hire off the street up to only 84 percent of formula because of the large number of bankruptcy offices over formula. Understaffed probation/pretrial services offices can hire off the street up to 80 percent of formula.

By the end of fiscal year 1994, we expect that clerks offices will be at or near 86 percent and probation/pretrial services offices will be at or near 82 percent.

The Judiciary recognizes the Committee's concern that we are increasing staffing overall. The probation and pretrial offices have long been understaffed, however, and while the request for 86 percent of resources for 1995 does represent an increase over the end-of-year (1994) level, it merely provides partial relief to overworked court staff. As for clerks' offices, a request of 86 percent in 1995 would maintain their anticipated end-of-year (1994) level.

#### SHORTAGE OF JAIL SPACE FOR PRESENTENCED DEFENDANTS

*Question.* According to the U.S. Marshals Service and your own fiscal year 1995 Probation/Pretrial Services justification, about one in four criminal defendants are detained in federal or contract jails for the duration of the disposition of their case.

If this is so, some 13,600 of the estimated 53,300 felony defendants indicted in fiscal year 1995 will be detained pending the disposition of their case.

However, because of a shortage of jail space in certain areas of the country—especially the Northeast and West Coast—some inmates are held several hundred miles away from the district in which they were indicted. And as a result of its own budget constraints, the Marshals Service has cut back on the transportation of detainees for meetings with attorneys, who must now travel to the point of detention to meet with their defendant clients. What has been the impact on the travel costs of federal defender organizations and panel attorneys of locating defendants more than 50 miles from the district in which their case is being heard?

Answer. The distant location of detention facilities from courthouses and the recent reduction in transportation of defendants to meet with their attorneys has resulted in increased costs to the Defender Services appropriation. Although we do not have sufficient information to provide a cost estimate resulting from locating detention facilities far from courthouses and reducing transportation of defendants to meet with their attorneys, we have information that the impact can be substantial. A 1990 survey of federal defenders in connection with a request by the United States Marshals Service (USMS) and the Federal Bureau of Prisons for the Judiciary to incorporate into its design guide a preference for locating detention facilities in proximity to courthouses, provides some useful information.

For example, one defender estimated that the approximately \$49,000 used for case-related travel in fiscal year 1989 could be cut by one-half if the detention facility was located near the courthouse as opposed to 25 miles away. All the defenders commented that attorneys expend considerable time traveling to distant detention facilities and waiting for the client to be brought to the interview room once the attorney arrives. Unproductive time is not limited to attorneys, as investigators and interpreters also travel to the detention facilities. The impaired access of attorneys to clients can result in a lack of preparedness, thus potentially delaying the resolution of a case. Delays in resolving cases, which also can result from the defendant not being produced at the courthouse because of inclement weather, further result in inefficiencies for other parts of the court system.

In addition, when the United States Marshals Service (USMS) limits transportation of defendants to convenient locations for consultation with counsel, panel attorneys must travel at hourly compensation rates plus transportation expenses. Such attorney travel may be more costly than having the USMS transport several defendants at one time. Also, increased attorney travel time may impact on the level of defender services that can be provided.

**Question.** Has the Judiciary considered using video or teleconferencing for consultations between attorneys and defendants and for preliminary court proceedings where the defendant may not be transported for a personal appearance?

**Court Proceedings.**—At its September 1988 proceedings, the Judicial Conference of the United States authorized the experimental use of videoconferencing in criminal proceedings for initial appearances and arraignments ("not guilty" pleas only). Under this program, a closed-circuit television hook-up between a federal courthouse and a detention facility is used to conduct certain pretrial proceedings without the necessity of transporting the accused to court.

The pilot program was initially implemented in the District of Arizona in the early summer of 1990. The District Court for the District of Arizona halted its project after the Ninth Circuit Court of Appeals issued an opinion in September of 1990 holding that an arraignment in which the defendant was present via videoconferencing violated Rules 10 and 43(a) of the Federal Rules of Criminal Procedure. *Valenzuela-Gonzalez v. United States District Court for the District of Arizona*, 915 F.2d 1276 (9th Cir. 1990). Rule 10 provides that arraignment shall be in open court and Rule 43(a) provides that the defendant shall be present at arraignment.

In response to the *Valenzuela-Gonzalez* decision and at the request of the Federal Bureau of Prisons (BOP), the Judicial Conference Standing Committee on Rules of Practice and Procedure, on October 15, 1993, circulated for comment to the bench and bar proposed amendments to Rules 10 and 43 to permit the videoconferencing of arraignments and other pretrial proceedings with the defendant's consent. A public hearing will be held in April 1994.

At its June 1992 meeting, the Judicial Conference Committee on Court Administration and Case Management approved the use of videoconferencing technology by the Northern District of Florida for preliminary criminal matters. The BOP, which purchased and installed the equipment for a video link between the courthouse and the Federal Detention Center in Tallahassee, recently removed it because of lack of use. The lack of use in part stemmed from the low volume of caseload at the Tallahassee court location.

At its March 1993 session, the Judicial Conference approved a pilot program in the Eastern District of North Carolina for the use of videoconferencing in mental competency hearings. In *U.S. v. Baker*, 836 F. Supp. 1237 (E.D.N.C. 1993), Judge W. Earl Britt ruled that the use of videoconferencing in an involuntary mental health commitment hearing pursuant to 18 U.S.C. § 4245, for which Criminal Justice Act representation was provided, did not violate the rights to due process and the effective assistance of counsel, or other rights under 18 U.S.C. § 4247(d) (such as an opportunity to confront and cross examine witnesses). The court distinguished the *Valenzuela-Gonzalez* decision by noting that the Federal Rules of Criminal Procedure were inapplicable to civil commitment proceedings. The court also rejected respondent's arguments that actual courtroom presence is necessary to impress upon inmates the gravity of the situation and that a tactical disadvantage existed by virtue of the Assistant United States Attorney being present in court and defense counsel being available to the judge only by videoconference. A notice of appeal has been filed. Finally, in an initiative sponsored by the BOP and the United States Marshals Service (USMS), the District Court for the Eastern District of Pennsylvania recently agreed to experiment with videoconferencing in preliminary proceedings other than arraignments, and the District Court for the District of Puerto Rico currently is considering whether to use the technology.

The BOP and the USMS support videoconferencing to reduce the cost of transporting prisoners and to enhance security concerns. The Judicial Conference Committee on Defender Services, however, has expressed reservations about the potential impact of videoconferencing of court proceedings on both the quality of defense services provided under the Criminal Justice Act and on the Defender Services appropriation. Videoconferencing may compromise the attorney-client relationship and dehumanize and diminish the impact of federal criminal proceedings. In addition, the removal of the defendant from the courtroom may result in increased travel and other costs for defense counsel, which would create additional demands on the Defender Services appropriation. Thus, videoconferencing of pretrial proceedings may shift costs from the BOP and United States to the Defender Services appropriation.

**Attorney-Client Consultations.**—The Judiciary is experimenting with the use of videoconferencing for consultations between attorneys and defendants. Videoconferencing of attorney-defendant consultations is occurring between the Federal Building in Honolulu and the detention facility in Santa Rita, California, for interviews of Criminal Justice Act attorneys with their clients. Because of state prison overcrowding in Hawaii, federal pretrial detainees have been housed in California,

although a federal detention facility is scheduled for completion in 1996. This project will be evaluated.

#### INCREASED COSTS OF LAWBOOKS

*Question.* I note where you have requested \$3.7 million to cover the increased cost of new lawbooks—an increase of some 10 percent. You note in your budget justification that the cost of lawbook continuations has increased 13 percent annually from 1989 to 1995. Why are the costs of these lawbooks so much higher than inflation? Isn't there any competition in the issuing of this contract?

*Answer.* Unfortunately, there is very little competition in legal publishing. West Publishing dominates the field and is often the only source for many titles and their continuations. Seven publishers supply the overwhelming majority of our lawbooks. Whenever possible, we purchase materials from the GSA schedule which ensures the lowest cost to the government. The Circuit Librarians work closely with the judges to reduce cost and duplication.

*Question.* You have also requested \$2.4 million for automated services which provide database and full text search capabilities of the same materials contained in the hardback lawbooks. As the courts become more automated and "computer friendly", is the Judiciary taking any steps to reduce the costs of providing the same legal documents in both hard-bound and automated versions?

*Answer.* Yes, the Judiciary is trying to promote the usage of Computer Assisted Legal Research (CALR) in chambers by providing automation training for judges and law clerks and cutting back on collections in chambers. We also regularly review the list of books recommended for judges, and after each review we have reduced the allowable expenditures for chambers collections. Digests and treatises have been canceled, and the number of years' worth of case reporters for chambers collections have been cut. Because it is much easier for some people to perform citation checking on-line, subscriptions to Shepard's Citations have been entirely cut in chambers.

#### DEATH PENALTY RESOURCE CENTERS

*Question.* Another area the Committee has been concerned with in the past has been the escalating costs of death penalty resource centers. In our report accompanying the Senate bill last year, we directed the Judiciary to reevaluate the program in light of the overall amount requested for resource centers since they were first funded in 1988 and the average resource center cost-per-case during the same period. What has the Judiciary done in response to this direction?

*Answer.* The Judicial Conference Committee on Defender Services has established a Subcommittee on Death Penalty Representation both to reevaluate the death penalty resource center program and develop recommendations for ensuring effectiveness and cost efficiency in death penalty representation, generally. The Subcommittee will study the current method of providing representation to death sentenced inmates as well as potential alternative methods (including proposals to maximize direct representation by defender organizations, some of which could entail creating defender organizations designed to provide direct representation only).

While this review is pending, the Judiciary has asked resource centers to reduce their costs and is requiring them to satisfy the demand for their services in fiscal year 1995 while limiting spending to fiscal year 1994 levels. Thus, the fiscal year 1995 funding request for death penalty resource centers is limited to the amount required to fund inflationary increases and the establishment of one additional resource center.

Preliminarily, the Judiciary can report that increases in the overall amount requested annually for resource centers have been a product of both the opening of new centers and an overall increase in resource center staffing required to address the demand for assigned counsel created by a growing death row population. The number of people on death row has increased steadily over the past 11 years, from 1,137 in 1982 to 2,785 in 1993, an increase of more than 144 percent. Indeed, there has been a 28 percent increase in the death row population since resource centers first were funded in 1988.

A long-term solution to the increasing costs associated with federal habeas corpus death penalty litigation lies in ensuring that states devote adequate resources to provide defense counsel services to defendants at trial and in state post-conviction proceedings.

#### ADMINISTRATIVE OFFICE OF THE U.S. COURTS

*Question.* I see that the AO is requesting an additional \$1.1 million to fund 16 full-time equivalent (FTE) positions.

At a time when executive branch agencies are reducing FTE after at least a year under a freeze—what makes the AO's situation so different than say that of the Department of Justice where they also are experiencing workload increases with fewer personnel resources?

Answer. The Administrative Office's appropriation has not kept pace with inflation. The AO's fiscal year 1994 appropriation is below its 1993 level and less than one-half percent over the 1992 level. At the same time, inflation and other mandatory costs have increased almost six percent. Consequently, the AO has been under a hiring freeze since the beginning of fiscal year 1993 resulting in a reduction in the number of positions we have been able to fill.

By virtue of the language included in the fiscal year 1994 conference report regarding support of the Budget Committee's Subcommittee on Fiscal Economy, Congress has recognized that the AO needs to play a large role in insuring that the Courts operate efficiently and make sound economic decisions during these times of fiscal constraint.

The AO has done its best to live with the realities of the current funding situation. We have instituted a hire from within policy, opening vacancies to AO personnel only to try to distribute the burden equally among divisions, we have used temporary positions where possible, and we have curtailed spending in other areas, such as travel and equipment. However, because over 85 percent of the AO's appropriation is devoted to personnel costs, there are not sufficient savings available in other areas to ease the AO's staffing crisis.

The AO is aware of the trend in the executive branch to reduce FTE levels and we feel we have shared that burden. However, we are also aware that this reduction is not being shared equally by all executive branch agencies. The President's fiscal year 1995 budget appendix indicates staffing increases over fiscal year 1994 for the Departments of Justice, Education, Energy, HUD, and Labor, the EPA, EEOC, and FEMA among others. As with these executive agencies' increases, our request for funding of these positions will not make the AO whole. It will only allow the AO to fill 40 percent of its vacant positions.

*Question.* If you've been handling the workload with these vacancies in the past, why fill them now?

Answer. The Administrative Office is working intently to make the best use of its scarce resources without diminishing support to the courts. However, the continued cutbacks and the freeze on filling positions are stretching the agency's workforce to the limits. In addition to the hiring freeze, promotions have been frozen, travel reduced, and allowances for travel costs restricted. Funds for such things as training, furniture, equipment, supplies and other expenses were severely restricted. Many of the AO staff have been required to work extra hours and weekends in order to get their work done at the same time the AO has had to eliminate payments for overtime.

As the courts have grown in size and the workload has become more complex, the challenges of judicial administration have increased significantly. Also, the structure and activities of the Judicial Conference and its committees have expanded in recent years. It has been necessary for the AO to shift its resources continually to meet these challenging and changing needs. While the dedication of the AO staff has managed to sustain the AO's performance, it is expected that this workplace will not be sustained in the long run, if the current staff does not see an end to the frenetic pace.

*Question.* I see that the AO is also asking for an additional \$2 million to maintain its base level of full-time-equivalent (FTE) positions. Why is this increase necessary? If the increase is not provided, will you be required to lay people off?

Answer. Title 28 U.S.C. grants the Administrative Office the authority to share in the fees generated by the Judiciary. The Judicial Conference has allowed the AO to receive up to five percent of the fees collected and retained by the Judiciary.

There will be less fee money available in fiscal year 1995 than was available in fiscal year 1994. The resulting impact on the AO will be a reduction of \$1,938,000 in fiscal year 1995. If replacement funds are not appropriated for fiscal year 1995, the AO, whose staffing level has already been significantly reduced because of a two-year hiring freeze, will be forced to reduce its staff by an additional 30 FTE based on the average salary and benefit cost. This would result in a 10 percent reduction in staff since 1993. This compares to the total staffing reduction being proposed for the executive branch. However, it should be noted that the executive branch will be phasing in their reductions until fiscal year 1999.

## JUDGES

*Question.* Since October 1993, how many Article III judges: have been confirmed, are awaiting Senate confirmation, are awaiting recommendation by the Justice Department and the White House?

*Answer.* Since October 1993, there have been 46 Article III judges confirmed. Thirty-two nominees currently are pending before the Senate Judiciary Committee.

The precise number of nominees which are awaiting recommendation by the Justice Department and the White House is not available to the Judiciary. However, we have been told that there are about 75 names "in the pipeline," and the Office of the White House Counsel has indicated that the Administration hopes to fill all 119 judicial vacancies in 1994.

*Question.* When a newly appointed Article III judge comes on board, how many positions or FTE's are required for support in addition to the judges' staff of law clerks and secretaries?

*Answer.* In addition to a circuit or district judge's staff of law clerks and secretaries, district court judges require courtroom deputy and court reporter support. The Judicial Conference has approved a ratio of 1.14 FTE for courtroom deputy support and 1.0 FTE for court reporter support for a district judgeship. These support positions, as well as the judge's law clerks and secretaries, are directly associated with the workload handled by the judge.

The district court work measurement formula, which determines the required FTE for deputy clerks, includes the workload credit for a courtroom deputy and workload credit for administrative support, management and training associated with the deputy.

Requirements for librarians are also based on the number of judges, a ratio of one librarian for six judges.

Most other requirements for court personnel in the Court's Salaries and Expenses account are driven by factors such as filings or number of offenders under supervision, factors which would not be affected by the addition of a judgeship.

In the fiscal year 1995 budget request all court staff, other than judges' law clerks and secretaries, are requested at 86 percent of workload requirements.

## SPACE AND FACILITIES

*Question.* Funds associated with space rental payments for the Thurgood Marshall Federal Judiciary Building are being transferred to the Court Salaries and Expenses account. What is the benefit of this transfer? What are the consequences if it is not approved?

*Answer.* The Thurgood Marshall Federal Judiciary Building houses a number of judicial entities. These include part of the Supreme Court Library, retired Supreme Court Justice chambers, Supreme Court Historical Society, Judicial Panel on Multidistrict Litigation, Administrative Office, Federal Judicial Center, and the United States Sentencing Commission.

Building and operating costs are currently provided for in the appropriation base for the various accounts involved. It is proposed that these funds, which total \$3 million, be transferred to the Salaries and Expenses budget in fiscal year 1995 (\$1 million is already in the Salaries and Expenses base for occupants of the building currently charged to that appropriation.) The Judiciary is seeking to consolidate the payment for the Marshall Building into one appropriation. The chief advantage of this approach is that it promotes administrative efficiency in that the semiannual bond payment charges and building operating costs will be covered in one check.

Further, the transfer of the space rental payments would facilitate the tracking of space and would eliminate the need to allocate operating expenses when building tenants expand or decrease occupancy within the building.

There is no additional cost to the Judiciary for proceeding in this way. All entities that are currently occupying the building are requesting to transfer all funds currently in their appropriation associated with payments for the Marshall building.

If the request is not approved, the Judiciary's overall request would not change. The amount requested in the Salaries and Expenses appropriation would need to be distributed to the agencies occupying the building.

The only increase expected in future years will be inflation associated with the operating cost of the building (currently less than \$7.00 per square foot). The amount for the bond payment will remain constant for 30 years. After 30 years the Judiciary will "own" the building, and the only costs at that point will be costs for operating the building.

## AUTOMATION

*Question.* The Judiciary is requesting \$9,950,600 above inflation to replace obsolete office automation equipment in the courts. What equipment do you plan to replace, what will it be replaced with, and what added benefits (operations, cost savings, etc.) will result from such replacements? (see p. 5.26)

*Answer.* Of the 28,000 personal computers (PC's) that are installed in the courts, approximately 4,000 are now five or more years old. By fiscal year 1995, this number will increase to approximately 10,000. Only 950 of these PC's will be replaced in fiscal year 1994. The \$9,950,600 requested in fiscal year 1995 will provide for the replacement of approximately 5,600 PC's, all of which are five or more years old.

This older equipment, mostly PC/286's, will be replaced primarily with PC/486 technology. Replacement of this equipment is vital to the courts in order to achieve the minimally acceptable level of automation necessary to produce systems capable of handling required intra-circuit communications, enhanced case management, and that will assist judges, clerks' office staff, and probation and pretrial services offices to cope with increased case loads in the courts. For instance, these older systems are not capable of running Windows-based or other advanced software applications, and the limited amount of resident memory on these systems limits their utility for use on the Data Communications Network (DCN). Additionally, without a cyclical replacement program, the maintenance costs for obsolete office automation equipment that cannot be replaced will increase considerably. Moreover, court personnel will lose the use of these tools to accomplish their day-to-day operations.

No net increase in the number of PC's acquired by the courts is expected to result from the cyclical replacement program.

*Question.* What projects were undertaken with the automation funds provided in fiscal year 1993? What projects were deferred and carried over into 1994? Why?

*Answer.* Undertaken in fiscal year 1993 with funds provided:

—Maintaining current services in the courts (i.e., operations and maintenance).

—Progress toward program completion of the following: expansion of the Probation and Pretrial Services Automated Case Tracking System (PACTS), now operational in 21 districts; and a jury modernization system.

Two requirements were deferred: Cyclical replacement of obsolete personal computers that no longer meet the minimum needs of court users; and expansion of the data communications network to 5 circuit headquarters locations.

The following requirements were carried over into fiscal year 1994 because the obligating documents were not completed properly before the end of the fiscal year. These requirements remain valid, thus the funds were carried over to be spent in accordance with their original intent: expansion of the data communications network to 6 circuit headquarters locations; and ADP support of financial, personnel, space and facilities, and case management systems.

No new projects were undertaken in fiscal year 1993.

*Question.* What is the basis for the justification—outside the staffing formula—of the 62 district clerk automation positions and the 43 probation/pretrial automation positions? What is the impact of automation that is not considered in the formula that justifies these positions? How many of the positions justified in this manner are actually included in the total staffing requests shown in Table SE. 21 of the justification?

*Answer.* All of the aforementioned automation positions are included in the total staffing request in Table SE. 21 and are identified in the accompanying footnote.

Clerks offices and probation/pretrial offices are eligible to receive PC support positions. The number of PC support positions is dependent upon the inventory of PC's in these offices.

Some probation/pretrial offices have the option of assuming responsibility for supporting their own PC's, in which case they would receive PC support positions. Or these offices may elect to combine their PC inventories with those of the clerk's office, in which case only the clerk's office would receive PC positions to support the combined inventories of PC's.

At the time the Congressional Submission is prepared, we are able to estimate how many PC's will be in clerks' and probation/pretrial offices nationwide. We do not know, however, whether some probation/pretrial offices will elect to support their own PC's or delegate that function to the clerk's office. Therefore, it is not possible to include support for these PC's in either the district clerk formula or the probation/pretrial formula.

Instead, these positions are included in the request for district court clerks' offices outside of formula. The 43 positions in the table represent those PC positions that already have been allocated to probation/pretrial offices. The remaining 62 are posi-

tions which may either reside in the clerks offices or be reallocated to probation/pretrial offices.

**Question.** Positions not included in the Courts of Appeals clerks formula have grown and are projected to grow more than the positions justified by the formula of 75 filings to 1 deputy clerk position. The additive positions are primarily for ADP and PC positions. What are the functions of these positions, and what is the reason for this higher rate of growth?

**Answer.**

*Part I—Function of automation positions*

Systems manager oversees the introduction, application, and operation of all automated systems in a court and ensures their coordination and integration across all court units served. The position has overall responsibility within the court for the management of systems hardware and software, for training court personnel to use the systems, and for the coordination and integration of all data processing office automation, and data communication resources within the court.

Assistant systems manager assists the Systems Manager in the aforementioned functions and may be assigned the primary responsibility for the day-to-day administration of an Integrated Case Management System (ICMS) application, or other major systems function and its direct applications. ICMS is a family of UNIX-based electronic docketing and case management systems supporting the appellate, district, and bankruptcy courts. These systems support automated case opening and closing, full docketing, forms generation, public access, and statistical reporting.

ICMS system administrator has primary responsibility for the day-to-day administration, operation, and support of an ICMS application or other major systems function, and its direct applications and associated functions and facilities. The ICMS Systems Administrator has first line responsibility for providing technical and end-user support for the ICMS application, and for performing or coordinating all automation support services necessary for the successful operation of this application system.

Systems maintenance technician position is subordinate to either the ICMS Systems Administrator or the PC System Administrator which is responsible for the daily operational readiness of court computer hardware (including peripheral equipment and associated data communications facilities), performing periodic data file backups, maintaining documentation and backup media libraries, performing hardware preventive maintenance, and diagnosing and correcting computer equipment and data communications malfunctions.

Data quality analyst is subordinate to either the ICMS System Administrator or the PC System Administrator and monitors, analyzes, and evaluates the accuracy and quality of data entered into the automated case management systems and other court data processing applications in order to ensure the integrity and efficient use of the court's databases. The Data Quality Analyst collects, analyzes and validates all case management, statistical, and other reports for the court.

Systems analyst programmer analyzes, evaluates, advises on, and enhances effectiveness of current automated systems. The position provides local programming and customization of both nationally supported automated systems and off-the-shelf commercially available software.

PC system administrator is responsible for providing consultation and day-to-day administration, operation, and support to assigned organizational units or to assigned functional areas using personal computers, to include support for all PC-based data processing, office automation, and data communications processes. The PC System Administrator has first line responsibility for providing technical and end-user support for PC-based systems, and for performing or coordinating all automation support services necessary for the successful operation of PC-based systems.

Automation support specialist is a subordinate position to either the ICMS System Administrator or the PC System Administrator and provides specialized and routine user support services, including user training and identifying, researching, and resolving computer and peripheral equipment, data communications, or software systems problems.

Depot maintenance technician is a subordinate position to either the ICMS System Administrator or PC System Administrator and provides equipment repair services, including trouble-shooting and identifying, repairing, or replacing personal computer and peripheral equipment components.

It should be noted that automated courts do not necessarily receive all nine of these positions.

### *Part II—Growth Rate*

The 3.5 percent increase in deputy clerks' positions, as determined by the work measurement formula, parallels the Judiciary's projection for a 3.5 percent increase in appellate filings in fiscal year 1995.

Additive positions include positions that are allocated to the courts to support both PC's and Automated Data Processing systems.

There is a correlation among filings, deputy clerk positions, and PC positions. An increase in the first precipitates increases in the second (through the work measurement formula) and third (through an established PC to support personnel ratio).

This correlation is not applicable to ADP positions. The sophisticated automated systems that have been implemented in the courts require constant support including maintenance at fixed costs, regardless of caseload fluctuations. Automation personnel are considered part of the required support. Moreover, courts are expanding the capacity of their systems to keep pace with increasing demands for information by the bench, bar, and public. Such expansion requires additional resources, including people, to support enhanced systems.

*Question.* The Judiciary Automation Fund expires at the end of fiscal year 1994. Why should the authority for the Fund be extended for five years?

*Answer.* First and foremost, the Fund is essential to the automation management process in the Judiciary because all projects are controlled through life-cycle phases which often exceed one year and have discrete milestone reviews. Further, most projects exceed one year in their development or replacement, and the full life cycle of standard national applications or platforms (including implementation, operations, and maintenance) averages six years. No funds are released to projects beyond the successful completion of the current phase. A project's advancement from one phase to the next is driven by its fulfilling phase requirements rather than by funding considerations.

Second, the Fund allows the automation program to take advantage of lower costs and other benefits through long-term contractual agreements with contractors. Key benefits—such as the ability to redeposit or carryover funds in case of unanticipated delays in the award of contracts or post-award protests, the ability to award multi-year contracts in advance of appropriations or to renew contracts in advance of a new fiscal year if funding is available—are essential, as they enable the Judiciary to make long-term programmatic decisions spanning more than one fiscal year rather than focusing on spending unobligated funds by the end of the fiscal year.

Third, the Judiciary adheres to an annual five-year IRM planning process in which users' prioritized needs and associated funding requirements are included in Functional Strategy Statements contained in the Long Range Plan for Automation in the Federal Judiciary. The multi-year aspect of the Fund equips the Judiciary with an effective vehicle to execute the Long Range Plan for Automation in the Federal Judiciary and manage the automation program effectively over the five-year planning cycle.

Fourth, all fees collected by the Judiciary for electronic public access are deposited to the Fund and expended to offset the cost of providing these services to the public (Public Law 101-515). This reduces the need for appropriated funds for this purpose. Without the Fund, the Judiciary probably will lose access to these fees, and these fees probably will go into the General Treasury Fund where they will be lost to the Judiciary.

*Question.* After five years of substantial funding, how would you best describe the status of the program? What remains to complete the automation program?

*Answer.* The Judiciary is approaching an acceptable level of stability in its automation program which has evolved, in the last two years, from an entrepreneurial to a full-fledged IRM program. The Judiciary has successfully completed development and delivery of the first generation of decentralized case management systems to appellate, district, and bankruptcy courts, and is making progress in implementing a case management system in probation and pretrial services offices. With respect to office automation, there are currently more than 28,000 personal computers now installed in the courts, a one-to-one ratio between PC's and the people who need them to do their work. The Judiciary is beginning to implement a communications infrastructure, replace and upgrade equipment on a cyclical basis, and to support the development and deployment of prioritized, modernized applications for financial control functions, human resources administration, chambers and courtroom functions, and shared access to docket records by court personnel and the public. The Judiciary's automation program will constantly evolve as do all automation programs; in that sense, it will never be completed.

*Question.* How do you know the automation program is on the right track? How do you determine if the automation program is meeting standards and expectations?

Has the program ever been independently evaluated? What were the results of the evaluation?

**Answer.** The automation program was evaluated independently in fiscal year 1991 by three outside consultants who found the program was rapidly evolving from an entrepreneurial to a full-fledged IRM program. To help manage the transition, the consultants made sixteen interrelated recommendations that fell into four major areas—organization, development, support, and management systems—and included the need for improved role definition, processes, planning, and user involvement in the requirements development process. The consultants' report and recommendations have formed the basis of a major IRM staff effort over the past two years. Such efforts include implementing processes for defining user requirements, applications development, testing, planning, budgeting, and others. A process is now being established to ensure periodic evaluation of how local and national applications and programs are meeting the needs of the users. As a result of these efforts, the Judiciary is approaching for the first time an acceptable level of stability and viability in its automation program.

**Question.** What best describes the Judiciary's software development philosophy? How do you assure quality is built in to the software that is developed? How do you assure that requirements are user driven?

**Answer.** The Judiciary subscribes to a software development philosophy whose goal is a product that is easier to develop, faster to deploy, and cheaper to maintain. A formal software product release cycle has been implemented and is improving the quality of and support for the nationally supported case management applications in the courts. End-users, as owners of the system requirements, participate throughout the process via the automation user group structure. They define functional requirements and provide approval during each step in the release development cycle. Internal testing followed by independent external testing ensures that the end-users' requirements have been correctly implemented. User groups provide approval to install products only after testing results show that the products met user requirements. Emphasis placed on standardized procedures, documentation, and reviews has made the applications easier to support. As a consequence of the formal software product release cycle, schedules are being met, and the software itself has improved from active user involvement in the requirements definition and comprehensive pre-release assessment phases.

**Question.** What is the Judiciary doing to ensure the compatibility and integration of systems?

**Answer.** Applications in the Judiciary must be able to communicate and exchange information with companion processes running on different platforms. To this end, the Judiciary is putting into place a set of standards for areas such as data communications, architecture, and data administration.

During the formal software development process, approval to pass from one phase to the next is obtained only after reviews are held to ensure that these established standards are followed. When fully implemented, these standards will assure integration of technology and information at the national level. At the same time, local courts will be able to meet their unique needs within this larger national framework.

#### TELECOMMUNICATIONS

**Question.** The cost of local telephone service has increased substantially in the past six years. What is being done to establish standards to contain these cost increases?

**Answer.** The dramatic increase in the cost of local telephone service over the past six years has been largely the result of uncontrollable increases set by local public service rate commissions. In order to contain these cost increases in a manner that is equitable to all courts, the Administrative Office recommended to the Committee on Automation and Technology a formula-based guideline. While the guideline does not impose mandatory limits on the authority of a court to choose its telephone system, it does set a limit on the amount of funding that will be provided to a court to pay the recurring cost of telephone lines if full funding is not made available in the financial plan. The new guideline was approved by the Judicial Conference at its session in March 1994.

**Question.** You have requested a 3.2 percent increase in mandatory adjustments above the base plus inflation for local, commercial, and FTS service. Explain the reason for these increases.

**Answer.** The mandatory adjustments above the base plus inflation for local, commercial, and FTS inter-city service are due primarily to uncontrollable increases above the rate of inflation for the recurring cost of service that are being charged

by local and commercial carriers. These rate increases are not negotiable by the Judiciary as they are set by the local public service rate commissions. Secondly, the mandatory adjustments are due to increases in the volume of traffic carried over local, commercial and FTS inter-city networks related to the work of the court requiring increased access to computer assisted legal research services and to the expanded use of facsimile transmission for time sensitive material.

*Question.* You have asked for a program increase of \$609,000 for commercial long distance service. What is the reason for this program increase?

*Answer.* The program increase is required to pay the increased cost of commercial long distance service related to the implementation of Automatic Route Selection (ARS) equipment by the General Services Administration. Whenever a long distance call is placed, the ARS equipment determines whether it is more cost effective to route the call over the FTS inter-city network or a commercial long distance carrier. As a result, there is an increased volume of traffic being carried over the commercial networks related to the work of the courts that is above the rate of inflation and cannot be absorbed by the economies in FTS inter-city service that resulted from the use of the ARS equipment.

*Question.* You have asked for a program increase of \$813,000 for FTS service. Please explain why the increase is needed.

*Answer.* The program increase is required to pay recurring costs for FTS inter-city service associated with the implementation of the wide area network portion of the Data Communications Network (DCN). The DCN is the communications infrastructure upon which the Judiciary's automation program is being built. The FTS inter-city network is the backbone of the DCN. FTS inter-city service is essential to the cost-effective integration of the local area networks in the courts into a functional whole capable of providing the level of national interconnectivity required to meet the computing needs of the Judiciary.

#### QUESTIONS SUBMITTED BY SENATOR ROBERT C. BYRD

##### GENERAL SERVICES REQUIREMENTS

*Question.* What is the status of the documentation required of the courts by the General Services Administration with regard to the space needs of the courts at the new Federal building-Courthouses to be constructed at Beckley and Wheeling, West Virginia.

*Answer.* It is our understanding that the General Services Administration has all of the materials it needs from the courts for the Wheeling project. GSA has the majority of the information it needs on Beckley and should not be delaying the project. Some materials on the Beckley project were approved by the Fourth Circuit Judicial Council's Facilities Committee on Monday, March 7, 1994. Action is pending with the full judicial council.

*Question.* When will all of the documentation be submitted to the General Services Administration?

*Answer.* It is anticipated that all materials will be submitted no later than the end of March 1994 and probably sooner.

*Question.* What can be done to accelerate the process?

*Answer.* The Judiciary recognizes the urgency of this request. The Administrative Office has been working with the court and the judicial council's staff to ensure the review process of the requirements in Beckley is completed as soon as possible.

#### QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

##### HOUSE BUDGET COMMITTEE PLANS TO STAY WITHIN THE CAPS

*Question.* As you may know, the Congressional Budget Office has made a preliminary determination that the President's fiscal year 1995 Budget exceeds the OMB estimated statutory ceiling on spending by \$3.1 billion. The House Budget Committee is planning on reporting a budget resolution this week, and they are looking at various reductions in order to close this gap.

According to a report in the "Congress Daily," the chairman of the House Budget Committee may be proposing a cut of \$360 million for the budget for the Judicial Branch. That would essentially mean a "hard freeze" in budget authority for the Judiciary, with no adjustments for inflation and no program increases.

What impact would this have on the operations of the Judiciary?

*Answer.* The Judiciary has been evaluating the impact of a proposed reduction from our requested fiscal year 1995 budget. At the Supreme Court hearing before

the House Appropriations Subcommittee, it was discussed that the House Budget Committee had recommended that the Judiciary's budget authority be reduced \$285 million and outlays reduced \$266 million.

Furthermore, in analyzing the Office of Management and Budget and the Congressional Budget Office outlay reports, it was determined that the difference between these reports was \$42 million. At this level, a reduction in the Judiciary's budget authority would not be necessary as we believe the difference is attributable to erroneous scoring of bankruptcy judges salaries as "discretionary".

However, if reductions were \$360 million or \$285 million, the Judiciary would be severely impacted. The total increase for the Judiciary is \$364,295,000, of which \$29,728,000 is for mandatory costs for judges' salaries. Total discretionary increases requested amount to \$334,567,000. If the \$360 million reduction mentioned above was taken, the Judiciary would be forced to reduce its fiscal year 1994 base by approximately \$55 million.

The results of this reduction on the Judiciary would be:

- no funds would be available to pay inflationary increases or fund the pay and benefits increases for Judiciary employees;
- public access would be curtailed, limiting access by the public and bar to the clerks' offices;
- services to judges, such as courtroom deputy support would be limited, resulting in reduced available trial time and increasing backlogs in pending cases;
- constitutional safeguards of due process in the judicial forum would be compromised as resources, particularly those for court reporters, interpreters and electronic court recording services, would be insufficient to meet demands;
- probation and pretrial services would have to continue operating at 80 percent or lower staffing requirements, further impacting on the quality of work, most notably in the supervision of offenders released by the Courts and the Bureau of Prisons. The result would be a lack of attention to offenders in the community under conditions such as home confinement, community service, drug and alcohol treatment, mental health treatment, and fine and restitution payment;
- the duties of probation and pretrial officers, i.e. conducting investigations and supervising persons in the community, are required by law, however, the time constraints for investigations could cause the level of supervision to be reduced in order to accommodate investigative requirements;
- total rental payments to GSA would not be made;
- 40 new facilities and 25 existing facilities, that currently have limited security because of insufficient funding in fiscal year 1993 and fiscal year 1994, would operate with minimum security coverage for judicial officers and court personnel;
- automated systems supporting electronic docketing, case management and bankruptcy noticing would be jeopardized because funds would not be available for emergency replacement and maintenance of these systems;
- pending civil caseloads and average time from filing to disposition would increase significantly because reducing clerks would delay scheduling trials and increase the backlog of pending cases;
- civil trials would need to be stopped sometime in the last quarter in fiscal year 1995;
- a freeze would be placed on panel attorney payments in early August denying a defendant his or her right to counsel.

A reduction of this magnitude would reverberate throughout the system and have major, visible consequences for the Judiciary, the public and the bar.

#### FULL-TIME EQUIVALENT (FTE) REDUCTIONS

*Question.* As you know, the president has proposed that Federal government personnel be reduced by 252,000 full-time equivalent employees over five years. That is a decrease of over ten percent.

The Judiciary is exempt from this reduction. Indeed, you are proposing a total of 29,102 positions in 1995, an increase of 974 over the 1994 level.

Do you believe the Judiciary should share in this government-wide FTE reduction? If not, what are the reasons the Judiciary should be exempt?

*Answer.* Even if the Courts' total request for personnel increases is approved for fiscal year 1995, the Courts will only be operating at 86 percent of the necessary staffing level as determined by its work measurement formulas, 14 percent below the necessary level. And, while it may be true that other agencies have not been given sufficient personnel resources to handle their workload. The Judiciary is unique in that it cannot control its workload. Nevertheless, the judiciary has taken

the initiative to limit staffing to 86 percent of its staffing needs. The executive branch has not yet taken such a measure.

The work measurement formulas determine the staffing level necessary in the courts based, in large measure, on the number of cases filed in the courts. The Constitution requires that the Courts handle the work placed before it. We cannot arbitrarily decide that because of funding constraints, only "X" number of cases will be heard or that after a certain point, no additional cases can be filed.

Furthermore, while the Judiciary is aware of the trend in the executive branch to reduce FTE levels, we are also aware that this reduction is not being shared equally by all executive branch agencies. The President's fiscal year 1995 budget appendix indicates staffing increases over fiscal year 1994 for the Departments of Justice, Education, Energy, HUD, and Labor, the EPA, EEOC, and FEMA among others.

*Question.* What impact would a similar reduction have on the operation of the Judiciary?

*Answer.* As stated in part 1 of this question, the courts' FTE levels are already well below a factor of a 10 percent reduction. Even if the courts' total request for personnel increases is approved for fiscal year 1995, the courts would only achieve 86 percent of the necessary staffing levels as determined by our work measurement formulas. This represents a level which is 14 percent below the courts' necessary level.

If the Judiciary was forced to take an additional 10 percent reduction, some of the following would result:

- public access hours would be curtailed, limiting access by the public and the bar;
- constitutional safeguards of due process in the judicial forum would be compromised as resources, particularly those for court reporters, interpreters and electronic court recording services, would be insufficient to meet demands;
- quality control of court records would deteriorate;
- pro se litigants would receive inadequate assistance, restricting their access to due process;
- services to judges, such as courtroom deputy support, would be curtailed, limiting available trial time and increasing backlogs in pending cases;
- in probation and pretrial services, an already bad situation (i.e., staffing at 80 percent of requirements) would be further exacerbated in the quality of work, most notably on the supervision of offenders released by the courts and the Bureau of Prisons;
- supervision of individuals released on probation would be further curtailed which then would impact probation and pretrial services since the probation system is currently lacking one third of the positions necessary to effectively supervise offenders in the community;
- a reduction in staffing, as workload increases, results in supervision services declining causing an increased risk to the public's safety and greater recidivism rates.

Since the Federal courts continue to face an increasingly demanding caseload, a further reduction to FTE's would result in both short-term and long-term implications for effective court operations at a time when the Administration is expanding the emphases and resources committed to the criminal justice system.

#### JUDICIAL VACANCY RATES

*Question.* As part of your 1994 budget proposal, you assumed vacancies among the 816 Article III judgeships. However, there are currently 119 vacancies; 23 in the Courts of Appeals, 94 in the District Courts and 2 in the Court of International Trade. The fiscal year 1995 budget assumes just 33 vacancies.

Based on the current number of vacancies, do you believe that the vacancy rate will be as low as 33 in 1995?

*Answer.* It is difficult to make predictions about the filling of judicial vacancies. Our estimates consider historical data on numbers of judges confirmed; the vacancies which occur when judges retire, take senior status, or die; and the information we receive from the executive and legislative branches, which control the nominations and confirmations. The precise number of nominees that are awaiting recommendation by the Justice Department and the White House is not available to the Judiciary, but the Office of the White House Counsel has indicated that the Administration hopes to fill all of the current 119 vacancies this year. This is the basis for the projection of 33 average vacancies for fiscal year 1995. As more current information is available on the confirmations in fiscal year 1994, we will update the pro-

jections based on the status of vacancies at markup and provide the information to the subcommittee.

*Question.* If vacancy rates do not improve, wouldn't there be savings that could be assumed in the 1995 budget request? If so, what saving could be made in the budget request?

*Answer.* The budget request for fiscal year 1995 includes an increase of \$7.6 million for the salaries and benefits to support an increase of 56 FTE for Article III judgeships. If, based on a revised projection at the time of markup, a lesser increase in FTE is required, a savings could be realized. Any estimated savings will be identified for the subcommittee at that time.

#### COURT SECURITY

*Question.* What is the relationship of the request of the Judiciary to that of the Marshals Service for Court Security?

*Answer.* The Judiciary request and the Marshals Service court security request serve two different purposes. The U.S. Marshals Service funds Deputy U.S. Marshals, equipment, rent, telephones, and other operating expenses associated with marshals' offices located in courthouses throughout the United States. The primary mission of the Deputies is providing security during all Federal judicial proceedings where defendants are in custody, transporting prisoners to and from detention facilities, and other missions in support of this process. These activities are funded through the Marshals Service salaries and expenses (S&E) appropriation.

The Judiciary request funds equipment and contract personnel primarily to secure the entrances to buildings or judicial areas. Under a Memorandum of Understanding, the U.S. Marshals Service administers the Judicial Facility Security Program for the Federal judiciary. Funding for this program is appropriated by the Congress to the Judiciary and transferred to the U.S. Marshals Service. These funds provide for contract Court Security Officers, who are responsible for providing physical security at courthouses; and procurement, installation, and maintenance of security equipment, including x-ray machines and metal detection equipment, duress alarms, closed circuit television systems, entry control packages for judicial chambers, bench armor in courtrooms and bullet-resistant glazing for windows, and other construction-related costs.

*Question.* To what extent does this bifurcation of resources cause problems in the administration of the court security program.

*Answer.* None whatsoever. They are two separate and distinct programs whose funds are never commingled. Together, they help to ensure a safe and secure environment for the Federal judicial process.

#### GSA RENTAL PAYMENTS, NEW SPACE

*Question.* By far the largest increase requested by the Judiciary is \$126 million for "space-related" increases. What are the components of this increase?

*Answer.* The increase is comprised of the following components:

- \$69.9 million to annualize space assigned to the Judiciary in fiscal year 1994;
- \$15.5 million for inflation on space rental and related equipment. The "related equipment" is sound amplification systems in courtrooms. Of this requested increase \$61,000 (an inflationary amount) is for the sound system equipment;
- \$29.3 million for new space to be assigned in fiscal year 1995;
- \$23.8 million for furniture in new space to be assigned to the Judiciary; and
- A reduction of \$13 million because GSA reduced the rates it charges its tenants in certain real estate markets based on a reappraisal of the rental rates it had planned to charge in 1995.

*Question.* How much is directly related to increased rental payments to the General Services Administration, and how much to furniture and related equipment?

*Answer.* Approximately \$102 million is for increased rental payments (inflationary adjustments and new space to be assigned to the Judiciary); \$23.8 million for furniture and \$61,000 for related equipment.

*Question.* Do expenditures for this purpose depend upon the degree to which new buildings for the Judiciary are actually available for occupancy during fiscal year 1995?

*Answer.* Yes. Because occupancy dates can change, the Judiciary will be working with the Subcommittee's staff to ensure the most accurate occupancy dates and projected rental estimates are available when the Judiciary's appropriations bill goes to mark-up.

## OBJECT CLASS EXPENDITURES—EQUIPMENT

**Question.** Estimated obligations for object class 31, "equipment", within the main account for the Judiciary are estimated to be \$36.9 million in 1993; \$75.1 million in 1994; and \$126.5 million in 1995. What accounts for this huge increase in expenditures?

**Answer.** In preparing the object class schedules for the Salaries and Expenses fiscal year 1995 budget request, the increases requested for the automation fund were erroneously included in object class 31 rather than object class 25 where they have been historically reported. Separate schedules are prepared for the Automation Fund showing the object class accounting of moneys in the fund. A detailed accounting of the correct amounts for object class 31 follows:

Description	Fiscal year—		
	1993	1994	1995
Telephone equipment .....	\$1,918	\$5,501	\$6,589
General equipment .....	1,330	6,217	7,614
Furniture .....	4,211	21,082	35,932
Lawbooks .....	26,937	29,109	31,191
Sound system equipment .....	2,535	2,327	2,522
Subtotal .....	36,931	64,236	83,848
No-year funds .....		10,867	
Total .....	36,931	75,103	83,848

While the increase from fiscal year 1993 to fiscal year 1994 appears significant, it is important to note that the fiscal year 1993 amount is a significant reduction from the fiscal year 1992 level. In fiscal year 1992, the amount obligated in object class 31 was \$62 million. In fiscal year 1993, concerned with a low appropriation, the Judiciary purposely withheld funds in object class 31, mainly in the furniture and telephone equipment areas, in order to conserve funds for emergency needs. In fiscal year 1994, it is necessary to replenish the funds in this object class in order to meet critical needs of the courts, including equipping new buildings that have come on inventory.

The increase between fiscal year 1994 and fiscal year 1995 is comprised primarily of inflationary increases (\$13,875,000), furniture costs associated with new court-houses designed for system furniture, and equipment costs associated with new positions being requested.

## JUDICIARY AUTOMATION FUND

**Question.** The Judiciary Automation Fund is used to finance automation activities in the Federal judiciary. It consists primarily of appropriated funds.

In 1993 you obligated \$53.4 million through this fund. At the end of the year, \$14.1 million carried over into 1994, and estimated obligations are \$68.7 million. Obligations in 1995 are estimated at \$92.6 million.

What accounts for this huge growth in expenditures over a two-year period?

Can we assume a similar carryover from 1994 into 1995? If so, do you need the increase in automation expenses of \$12.7 million that is requested in the primary judiciary account?

**Answer.** There was only a 9.9 percent growth from fiscal year 1993 to fiscal year 1994. In fiscal year 1993, \$62.5 million was available for automation. All of the funds were scheduled to be obligated in fiscal year 1993 for requirements contained in the Long Range Plan. Despite the Plan, \$14.1 million was not obligated because the obligating documents were not completed properly before the end of the fiscal year. As the requirements contained in the Plan remain valid, the funds were carried over to fiscal year 1994 to be spent in accordance with their original intent.

From fiscal year 1994 to fiscal year 1995, a growth of 34.8 percent is projected. This growth is principally due to increased operating costs associated with providing computer assisted legal research services to the courts (Westlaw/LEXIS) and to the cost of replacing obsolete office automation equipment that no longer meets the minimum needs of the court users. The fiscal year 1995 request also contains funds for the completion or expansion of ongoing programs including replacement of the personnel/payroll system, replacement of the financial system, expansion of the Probation and Pretrial Services Automated Case Tracking System (FACTS) to the remain-

ing districts, installation of an integrated library system in the circuit courts, and expansion of the data communications network to district and bankruptcy court locations. No funds included in the request are for the purpose of beginning new programs.

No. As stated above, the fiscal year 1993 carryover of \$14.1 million occurred because the obligating documents were not completed properly before the end of the fiscal year. This will not happen again as new financial management procedures have been put into effect to assure that all documentation is completed properly prior to the end of the fiscal year.

*Question.* According to the General Accounting Office, there are 28,000 personal computers in the Judiciary; that's almost one per employee. Is that an accurate count?

*Answer.* Yes, there are approximately 28,000 personal computers (PC's) in the Judiciary. This is a reflection of the judiciary's goal set forth in the Long Range Plan for Automation in the Federal Judiciary to achieve a one-to-one ratio of PC's for all court personnel who need them to accomplish their work. Additionally, the PC's installed include common-use PC's such as those used for training, servers, libraries, as well as laptop PC's used for travel. The Administrative Office keeps an Office Automation Certification Database which tracks the number of PC's installed in the courts. This database is updated continuously.

*Question.* If so, shouldn't we put a freeze on acquisition of personal computers until we develop a rational policy for procurement, disbursement, and use?

*Answer.* No, a freeze should not be imposed as a rational policy for procurement, disbursement, and use already exists. Of the 28,000 personal computers (PC's) that are installed in the courts, approximately 4,000 are currently five or more years old. By fiscal year 1995, this number will increase to approximately 10,000. This older equipment, mostly PC/286's, will be replaced primarily with PC/486 technology. Replacement of this equipment is vital to the courts in order to achieve the minimally acceptable level of automation necessary to produce systems capable of handling required intra-circuit communications and enhanced case management, and that will assist judges, clerks office staff, and probation and pretrial services offices to cope with increased case loads in the courts. Additionally, without a cyclical replacement program, maintenance costs for office automation equipment that is obsolete or irreparable would increase considerably. Moreover, court personnel will lose the use of these tools to accomplish their day-to-day operations.

No net increase in the number of PC's acquired by the courts is expected to result from the cyclical replacement program.

#### ECONOMY SUBCOMMITTEE

*Question.* Last year the Judiciary, with the full support of this Subcommittee, established the Economy Subcommittee which reports to the Budget Committee of the Judicial Conference. The Subcommittee's responsibility is to oversee efforts at greater fiscal accountability and efficiency.

Although they have only been working a short time, has the Subcommittee had an impact on your operations in 1994, and on the 1995 budget request for the Judiciary?

*Answer.* Although the Subcommittee was only approved by the Judicial Conference in its September 1993 Session, the premise of its underlying philosophy was implemented much earlier. For example, at the July 1993, Budget Committee meeting considering the courts' fiscal year 1995 budget, Judge Owen M. Panner, who co-chairs the Economy Subcommittee along with Judge William G. Young, was instrumental in reducing line committee requests by \$225 million. This kind of rigorous scrutiny of requests being made by program committees will continue to be the norm in the future.

The Economy Subcommittee is also impacting operations in fiscal year 1994. As a result of the Subcommittee's first meeting on November 18, 1994, many issues have been identified for analyses. For example, whereas in the past, we have had work measurement formulas that simply reflect the average time that people take to perform a specified task, we are now attempting to identify a methodology to determine what is the most efficient way to accomplish a task and to incorporate such efficiencies within the formulas themselves.

#### SUBCOMMITTEE RECESS

Senator HOLLINGS. That will end the hearing this morning. We will meet on March 23 to hear Attorney General Reno.

Judge ARNOLD. Thank you, sir.

Mr. MECHAM. Thank you, Mr. Chairman.

Judge WALKER. Thank you, Mr. Chairman.

Senator HOLLINGS. Thank you.

[Whereupon, at 11:35 a.m., Thursday, March 3, the subcommittee was recessed, to reconvene at 10 a.m., Wednesday, March 23.]



**DEPARTMENTS OF COMMERCE, JUSTICE, AND  
STATE, THE JUDICIARY, AND RELATED  
AGENCIES APPROPRIATIONS FOR FISCAL  
YEAR 1995**

**TUESDAY, MARCH 22, 1994**

**U.S. SENATE,  
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,  
Washington, DC.**

The subcommittee met at 10 a.m., in room S-146, the Capitol,  
Hon. Ernest F. Hollings (chairman) presiding.

Present: Senators Hollings, Kerrey, Domenici, Stevens, and Hat-  
field.

**DEPARTMENT OF COMMERCE**

**SECRETARY OF COMMERCE**

**STATEMENT OF RONALD H. BROWN, SECRETARY OF COMMERCE**

**ACCOMPANIED BY:**

**DAVID J. BARRAM, DEPUTY SECRETARY OF COMMERCE**

**THOMAS R. BLOOM, CHIEF FINANCIAL OFFICER/ASSISTANT SEC-  
RETARY FOR ADMINISTRATION**

**LORETTA DUNN, ASSISTANT SECRETARY FOR LEGISLATIVE AF-  
FAIRS**

**JONATHAN SALLET, ASSISTANT TO THE SECRETARY/DIRECTOR,  
OFFICE OF POLICY AND STRATEGIC PLANNING**

**ALAN P. BALUTIS, DIRECTOR, BUDGET, PLANNING, AND ORGANI-  
ZATION**

**MARK E. BROWN, DIRECTOR, OFFICE OF BUDGET**

**MARY E. GOOD, PH.D., UNDER SECRETARY FOR TECHNOLOGY**

**D. JAMES BAKER, PH.D., UNDER SECRETARY FOR OCEANS AND AT-  
MOSPHERE**

**JEFFREY E. GARTEN, UNDER SECRETARY FOR INTERNATIONAL  
TRADE ADMINISTRATION**

**WILLIAM GINSBERG, ASSISTANT SECRETARY FOR ECONOMIC DE-  
VELOPMENT**

**PAUL A. LONDON, DEPUTY UNDER SECRETARY FOR ECONOMIC  
AFFAIRS**

**PREPARED STATEMENTS**

Senator HOLLINGS. Today, the subcommittee will hear testimony from Secretary Brown on the fiscal year 1995 Commerce Department budget. For fiscal year 1995, the President's budget requests appropriations totaling \$4.2 billion, an increase of \$552 million above this year's level.

Mr. Secretary, we welcome you. And we will include your statement in its entirety in the record along with a statement submitted by Senator Lautenberg, and you can deliver it or highlight it as you wish.

[The statements follow:]

STATEMENT OF RONALD H. BROWN

Mr. Chairman and members of the Subcommittee, it is with great pleasure that I appear this morning to testify on behalf of the President's fiscal year 1995 budget for the Department of Commerce. The President's fiscal year 1995 budget request is for \$4.2 billion, an increase of \$654 million from the fiscal year 1994 level of \$3.575 billion.

Mr. Chairman, the President's budget request is more than a fiscal document—it points the way, as well, towards the renaissance of the Department of Commerce. In his State of the Union message, the President pledged to continue our national journey of renewed and expanded economic opportunity and job creation for the American people. The mission of the Department of Commerce is central to our successful completion of that journey.

Consider the responsibilities we have been given. In his State of the Union message, the President talked about our National Export Strategy, about the need to invest more in civilian technology, about building the National Information Infrastructure, about sustainable industrial and business development, about positive management of our environmental resources, and about the kind of work in economic development that is symbolized by our efforts to assist economically distressed urban and rural communities and our defense conversion efforts.

For next year, the President's budget requests an 18 percent increase for Commerce—and this comes at a time when overall Federal discretionary spending is remaining essentially level. The increase clearly reflects a vote of confidence in the Department, as well as recognition that we play a vital role in pursuing the President's economic agenda.

The vision of our fiscal year 1995 budget is based on the solid foundation provided by the Subcommittee, and by the Congress, for fiscal year 1994. For the current fiscal year, you actually provided more funding than the Administration had requested, mostly due to greater funding for our defense conversion efforts.

Your actions complement the President's belief in a federal government that works in partnership with the private sector to produce concrete results for our economy. This relationship marks a departure from the recent past, where the federal government's detachment from the private sector drove Commerce's budget down—the fiscal year 1993 budget was less in constant dollars than it was in 1980.

Mr. Chairman, our fiscal year 1995 budget will extend the support shown by the President and the Congress, by focusing Commerce resources in five cross-cutting themes: Civilian Technology, Export Growth and our National Export Strategy, Economic Development, Environmental Stewardship and Assessment, and the Economic Information Infrastructure.

These themes work in harmony to define the role that Commerce is playing in helping America's businesses, communities, and workers. In my oral testimony, let me note just a few of the highlights.

First, Civilian Technology. President Clinton's technology policy recognizes that our past technology efforts are no longer adequate. The Nation urgently needs improved strategies for government/industry cooperation in the support of industrial technology.

Our fiscal year 1995 budget meets that challenge. For the Technology Administration, we are requesting a total of almost \$1 billion. Specifically, we request additional funding to promote economic growth by: stimulating new pre-competitive technology through the Advanced Technology Program (ATP); establishing a nationwide network of manufacturing extension centers through the Manufacturing Extension Partnership program (MEP); and providing additional support for the Office of the Under Secretary for Technology and the Office of Technology Policy to support her work as she assumes the additional responsibilities for coordinating the Administration's Partnership for a New Generation of Vehicles Initiative, and for chairing the new Civilian Industrial Technology Committee of the National Science and Technology Council.

In addition, the National Telecommunications and Information Administration (NTIA) requests \$134 million, a \$63 million increase, for the National Information Infrastructure (NII). Just this week we announced the beginning of the process to award the grants included in our fiscal year 1994 budget. This program—and its

growth—is an important part of the Administration's strategy towards the information highways—and towards ensuring that those high-tech highways are a path linking Americans and not a barrier keeping information "haves" from information "have nots".

Second, Export Growth. The Trade Promotion Coordinating Committee (TPCC), which I chair, has launched the National Export Strategy. In the short term, in fact, increased exports may be the best means we have of boosting job creation in the United States. We believe that U.S. exports can reach \$1 trillion by the start of the next decade, producing six million new jobs. Trade issues and export growth are priority areas for us.

The largest single item in this area will go directly towards reaching the goal of our National Export Strategy. That is a \$13 million increase for ITA, to enhance our network of trade specialists, expand opportunities for American exporters in critical growth markets, and use exports to facilitate the transition from defense production to commercial marketing. This includes support for the export of environmental technologies, which I mentioned in my discussion of Civilian Technology theme.

Third, Economic Development. Re-invigorating both the Economic Development Administration (EDA) and the Minority Business Development Agency (MBDA) is crucial to assisting distressed American communities and businesses.

That is why EDA requests \$140 million to find alternative uses for closing or shrinking Department of Defense, Department of Energy, and major contractor facilities, and to return these areas to a self-sustaining footing.

EDA also seeks \$50 million in budget authority to support a \$269 million loan guarantee program to fill the gap in current federal credit programs for business development. These loan guarantees will leverage limited federal dollars to local, state, and non-profit organizations which have other reserves that can be used to facilitate business activity and development in distressed areas. EDA will work with governmental and not-for-profit entities to provide assistance that leads to long-term job creation. This program will give EDA another tool in their comprehensive approach to community assistance, which already provides for public works and economic adjustment assistance.

This new program will provide additional resources that will work in league with our current efforts, including: grants for public works and development facilities; planning and coordination grants for communities; technical assistance grants, including the University Center program; economic and industrial trends research; and, economic adjustment grants. Our efforts support rural and urban communities alike.

The final phase of our economic development package will be provided by the MBDA, which requests a \$2 million increase for an additional Minority Enterprise Growth Assistance (MEGA) Center and to improve access for minority firms to capital and federal procurement opportunities.

Fourth, Environmental Stewardship and Assessment. This Administration is committed to an environmental strategy that promotes sustainable development and rejects the need for false choices between environmental goals and economic health. NOAA, the Department's largest component, promotes stewardship of the global environment by managing natural resources and monitoring and predicting changes in the Earth's environment. This enables us to link trade, development, and technology with environmental issues.

NOAA requests a \$52.2 million increase to build sustainable fisheries through new management and recovery plans. NOAA will also promote coastal ecosystem health through improved management techniques, and will modernize navigation and positioning services. These efforts have the potential to add 300,000 jobs and an \$8 billion increase to our Gross Domestic Product by the end of the decade.

NOAA's environmental assessment and prediction activities comprise the majority of that bureau's activities and are the source of its largest increase, \$78.2 million, to continue the modernization of the Weather Service, and expand Climate and Global Change Research.

NOAA's \$170.5 million decrease from fiscal year 1994 largely reflects changing infrastructure requirements. Current activities regarding fleet modernization and facility maintenance and construction will continue, but at lower levels. This is due primarily to reduced requirements for Weather Forecast Office (WFO) construction and non-recurring projects.

Fifth, Economic Information Infrastructure Initiative. Political and economic decision-making depend on quality economic information, and American business and industry needs information as much as it needs labor and materials. But, our data are weakest in areas where economic change has been most dynamic.

I see a number of areas where improved statistics are essential to the nation's economic wellbeing. That is what our budget request would achieve.

We are also seeking additional funds for 2000 Decennial Census planning, to improve the accuracy of the count and strive to keep real costs at or below the level of the 1990 census, including testing in 1995 of a variety of basic changes in how the census may be conducted.

All of the themes I've spoken about—our program missions and the ways we're managing the Department to implement those themes—work in harmony to define the critical role that this new and renewed Department of Commerce will play in helping America's businesses, communities, and workers make the journey of economic renewal.

Our message is clear. This budget request reflects a vote of confidence in the Department of Commerce and a recognition of the central role that the Department is playing in pursuing the economic themes that the President voiced in his State of the Union message.

I would be happy to answer any questions you may have about our fiscal year 1995 budget request.

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#### STATEMENT OF SENATOR FRANK R. LAUTENBERG

I would like to thank both the Chairman for convening this hearing and Secretary Brown for testifying this morning on the President's fiscal year 1995 budget for the Department of Commerce.

During his State of the Union Address, the President talked of programs that would lead the United States into the next century, emphasizing government-industry partnerships, increased export opportunities, and the information super-highways. I am pleased that the President's fiscal year 1995 budget for the Department of Commerce reflects such a commitment toward greater economic development and job creation.

During past Administrations, the resources available from the Commerce Department to the private sector were few and those that did exist were not user-friendly. The President and Secretary Brown have, in one year, made more progress in increasing the accessibility of the Department to businesses than was done during the last twelve years.

Increasing export opportunities is an effective and relatively simple means of creating jobs. A recent report of the Trade Promotion Coordinating Committee (TPCC) stated that exports of U.S. goods and services could reach \$1 trillion by the turn of the century and could produce over six million new jobs. Even if these numbers prove to be overly-optimistic, exports will be the primary vehicle for job creation through the next decade. The proposed increase in the budgets for the International Trade Administration and the Bureau of Export Administration underscores the importance of exports to the United States and this should likewise be recognized by Congress.

I would like to commend the Secretary for recognizing the importance of environmental technology. The Department has requested \$4.1 million to promote exports of products and services which utilize such technology. Given that environmental technologies have an estimated market share of \$200 to \$300 million, I believe that this money would be well-spent.

Revamping both the Economic Development Administration and the Minority Business Development Agency are critical for rebuilding our socially and economically disadvantaged communities. Furthermore, it is necessary that the Department have sufficient funds to assist those communities impacted by base closures and Department of Defense procurement cutbacks. I am confident that Congress will recognize the continued need for such funding.

Clearly the Department needs to take a more active role in promoting stewardship of our environment through better management of the Nation's natural resources than was done by past Administrations. However, it is not clear to me that in a time of curtailed discretionary spending, the National Oceanic and Atmospheric Administration (NOAA) needs \$1.25 billion to better assess and predict the weather. I'll be looking closely at the \$78.2 million increase in this area.

I am also not sure whether the President's Economic Information Infrastructure Initiative should be funded at \$358.8 million in fiscal year 1995. It is important to have accurate economic statistics upon which to base our monetary policy and the Department's efforts to improve accurate information gathering should be praised. Yet, I need to be persuaded that such a large increase for fiscal year 1995 is vital to reach this goal.

Again, I would like to thank Secretary Brown for appearing here this morning and I look forward to your testimony.

#### OPENING REMARKS

Secretary BROWN. Thank you, Mr. Chairman. I think I will highlight it, but I would be remiss in beginning my remarks without expressing my appreciation and gratitude to you for your Herculean efforts in guiding Senate bill 4, the Competitiveness Act of 1994, through the Senate.

Senator HOLLINGS. I had to guide you, not the actors. [Laughter.]

Secretary BROWN. We were helping each other, both talking to each other and talking to Members of the Senate. We got it done.

Senator HOLLINGS. Well, we appreciate it. It was an outstanding initiative, and we will get it going. And we have our distinguished friend, Ted Stevens, the Senator from Alaska, and others helping.

Secretary BROWN. We certainly did. It is obviously a pleasure to appear before the committee today on behalf of the President's fiscal year 1995 budget for the Department of Commerce. The President's fiscal year 1995 budget request is for \$4.2 billion, which is an increase of \$654 million from fiscal year 1994 levels.

The President's budget request, we believe, is more than just a fiscal document. It points the way, as well, toward the renaissance of the Commerce Department. In his State of the Union Message, the President pledged to continue our national journey of renewed and expanded economic opportunity and job creation for all the American people.

#### DEPARTMENT OF COMMERCE MISSION

The mission of the Department of Commerce is absolutely essential to our successful completion of that journey. I think, for the moment, we ought to consider the responsibilities that the Commerce Department has been given. In his State of the Union Message, the President highlighted our national export strategy.

He talked about the need to invest more in civilian technology, about building the national information infrastructure, about sustainable industrial and business development, about positive management of our environmental resources, and about the kind of work and economic development that has symbolized our efforts to assist economically distressed urban and rural communities, and our defense conversion efforts.

For next year, the President's budget requests an 18-percent increase for the Commerce Department. And obviously this comes at a time when overall Federal discretionary spending is remaining essentially level. The increase clearly reflects, we believe, a vote of confidence in the Department, as well as recognition that we play a vital role in pursuing the President's economic agenda.

The vision of our 1995 budget is based on the solid foundation provided by this subcommittee and by the Congress for fiscal year 1994. For the current year, you actually provided more funding than the administration had requested, mostly due to greater funding for our defense conversion efforts.

Your actions complement the President's belief in a Federal Government that works in partnership with the private sector to produce concrete results for our economy.

Mr. Chairman, our fiscal year 1995 budget will extend the support shown by the President and the Congress by focusing Commerce resources in five cost-cutting themes: civilian technology export growth and our national export strategy, economic development, environmental stewardship and assessment, and our economic information infrastructure.

These themes work in harmony to define the role that Commerce is playing to help America's businesses, to help America's communities, and to help America's workers.

#### CIVILIAN TECHNOLOGY

In my oral testimony this morning, I would like to note just a few of the highlights. First, in the area of civilian technology, President Clinton's technology policy recognizes that our best technology efforts are no longer adequate. The Nation urgently needs improved strategies for Government/industry cooperation in the support of industrial technology. And that is why I began this session this morning talking about the Senate action on Senate bill 4, which is an important part of this effort.

Our fiscal year 1995 budget meets that challenge.

#### TECHNOLOGY ADMINISTRATION

For the Technology Administration we are requesting a total of almost \$1 billion.

Specifically, we request additional funding to promote economic growth by stimulating new, precompetitive technology through the ATP program, by establishing a network of nationwide manufacturing extension centers through the Manufacturing Extension Partnership Program, by providing additional support for the Office of the Under Secretary for Technology and the Office of Technology Policy to support her work as she assumes the additional responsibilities for coordinating the administration's partnership for a new generation of vehicles initiative, and for chairing the new Civilian Industrial Technology Committee of the National Science and Technology Council.

In addition, the National Telecommunications and Information Administration requests \$134 million, an overall increase of \$63 million.

Just last week, we announced the beginning of the process to award the grants included in our fiscal year 1994 budget. This program and its growth is an important part of the administration's strategy toward the information superhighways and toward ensuring that those high-tech highways are a path that links Americans and not a barrier to keeping information haves from information have-nots.

#### EXPORT GROWTH

Second is the area of export growth. Mr. Chairman, members of the committee, the Trade Promotion Coordinating Committee, which, as you know, I have the honor and privilege to chair, has launched the national export strategy, which was announced by the President last September. In the short term, in fact, increased ex-

ports may be the best means we have of boosting job creation in the United States.

We believe that American exports can reach \$1 trillion by the turn of the century, producing 6 million new jobs for the American people. Trade issues and export growth are priority areas for us. The fact is that American exports equal American jobs. The largest single item in this area will go directly toward reaching the goal of our national export strategy. That is a \$13 million increase for the International Trade Administration to enhance our network of trade specialists, to expand opportunities for American exporters in critical growth markets, and to use exports to facilitate the transition from defense production to commercial marketing.

This includes support for the export of environmental technologies, an area in which our Nation has the lead. And it is part of what I mentioned in my discussion about civilian technology.

#### ECONOMIC DEVELOPMENT

Third, Mr. Chairman and members of the committee, is the area of economic development. Reinvigorating both the Economic Development Administration and the Minority Business Development Agency is crucial to assisting distressed communities and businesses located in both urban and rural areas. And that is why EDA requests \$140 million to find alternative uses for closing or shrinking Department of Defense, Department of Energy, and major contractor facilities, and to return these areas to a self-sustaining footing.

EDA also seeks \$50 million in budget authority to support a \$269 million loan guarantee program to fill the gap in current Federal credit programs for business development. Loan guarantees, we believe, will leverage limited Federal dollars to local, State, and non-profit organizations, which have other reserves that can be used to facilitate business activity and development in these distressed areas.

EDA will work with governmental and not-for-profit entities to provide assistance that leads to long-term job creation. This will give EDA another tool in their comprehensive approach to community assistance, which already provides for public works and economic adjustment assistance.

This new program will provide additional resources that will work in league with our current efforts, including grants for public works and development facilities, planning and coordination grants for communities, technical assistance grants, including the university center program in economic and industrial trends research and economic adjustment grants.

Our efforts support rural and urban communities alike.

The final phase of our economic development package will be provided by MBDA, the Minority Business Development Agency, which requested a \$2 million increase for an additional Minority Enterprise Growth Assistance Center, called a Megacenter, and to improve access of minority firms to capital and Federal procurement opportunity.

## ENVIRONMENTAL STEWARDSHIP AND ASSESSMENT

Fourth is the area of environmental stewardship and assessment. This administration is committed to an environmental strategy that promotes sustainable development and rejects the need for false choices between environmental goals and economic health.

We think that the Commerce Department can play a lead role in the area of sustainable development because the Department is responsible for economic growth and job creation through our work with the private sector and because NOAA is a major part of the Commerce Department. Bringing those two together we can cause some confluence in getting us out of this box of assuming that new technologies somehow mean lost jobs, rather than creating whole new sectors of our economy that can be found in the area of environmental technology. A decade or more ago we were engaged in a debate which pitted forces of growth against those concerned about the environment, and a decade later we find we have a whole new sector of our economy called environmental technology, which is, in fact, creating hundreds of thousands of jobs for the American people.

NOAA, the Department's largest component, promotes stewardship of the global environment by managing natural resources and monitoring and predicting changes in the Earth's environment. This enables us to link trade, development, and technology with environmental issues. NOAA requests a \$52.2 million increase to build sustainable fisheries through new management and recovery plans.

I might add that I was in New England yesterday talking about the impact that our amendment five has on the fisheries in the New England area, and bringing both EDA and NOAA resources to those affected communities and groups of fishermen. These efforts to build sustainable fisheries have the potential, we believe, of adding as many as 300,000 new jobs, and an \$8 billion increase to our gross domestic product by the end of the decade. And that is our effort to improve and promote coastal ecosystems' health through improved management techniques and modernization of navigation and positioning services will also help.

NOAA's environmental assessment and prediction activities comprise the majority of that bureau's activities and are the source of the largest increase—\$78.2 million—to continue the modernization of the National Weather Service and expand climate and global change research.

NOAA's \$170.5 million decrease for fiscal year 1994 largely reflects changing infrastructure requirements. Current activities regarding fleet modernization and facility maintenance and construction will continue, but at lower levels. This is due primarily to reduced requirements for weather forecast office construction and other nonrecurring projects.

## ECONOMIC INFORMATION INFRASTRUCTURE INITIATIVE

Fifth and finally, Mr. Chairman and members of the committee, is the economic information infrastructure initiative. Political and economic decisionmaking depend on quality economic information. And American business and industry need information as much as

they need labor and materials. But our data are weakest in areas where economic change has been most dynamic.

I see a number of areas where improved statistics are essential to the Nation's economic well-being. That is what our budget request would, in fact, achieve.

We are also seeking additional funds for the decennial census in the year 2000, for planning for that census, to improve the accuracy of the count, and keep unit costs at or below the level of the 1990 census, including testing in 1995 of a variety of basic changes in how the census may be conducted.

All of the themes that you have given me the opportunity to speak to you about this morning, Mr. Chairman, are really about our ongoing programs and missions and the ways we are managing the Department to implement those themes. They all work in harmony to define the critical role that this new and renewed Department of Commerce will play in helping American businesses and communities and workers make the journey of economic renewal.

Our message is clear. The budget request, we believe, reflects a vote of confidence in the Department of Commerce, and a recognition of the central role that the Department is playing in pursuing the economic themes that the President voiced in his State of the Union Message.

Obviously, I would be pleased, Mr. Chairman and members of the committee, to be responsive to your questions.

Senator HOLLINGS. I wanted to yield to Senator Domenici. Maybe he had to go back to the floor. He is managing the budget resolution up on the floor here this morning. So, let me get into some of these things, like—well, I will yield to the Senator on questions when he gets back.

You say that a major part is NOAA, and I have a lot of questions about NOAA. We could have a separate hearing because you have cut that agency by \$170 million. How do you make it a major part by cutting it?

Secretary BROWN. The cuts, Mr. Chairman, are principally due to one-time purchases in the budget last year. For example, a jet aircraft, which is something that NOAA did not have, will help us a great deal in weather forecasting and dealing with hurricane situations. We had no aircraft suitable to do that kind of predicting.

The fleet renewal also, purchases that were made or authorized last year are not in the budget for this year. So, we feel that, in fact, in the areas that are most important, fisheries management and renewal, where additional resources were placed in NOAA, really indicate that we are expanding the efforts in the area.

#### FISHING FEES

Senator HOLLINGS. Well, to get right to the point, how about these commercial fishing fees? You have got \$82 million in fishing fees proposed in the budget. Those are taxes. We do not see people running around putting taxes—particularly going up yesterday to New England like you are saying, and giving \$30 million to the fishermen because they are broke, and say, by the way, we are going to charge you \$82 million tomorrow.

Secretary BROWN. There are provisions when you are dealing with distressed areas, as I was yesterday, of a reduction in those fees, Mr. Chairman.

Senator HOLLINGS. A reduction in the fee. We do not have the fee right now. What fee are you talking about?

Secretary BROWN. Once the fees are implemented, that is to make up the balance you just mentioned—the \$80 million amount—there would be fees for fishermen. There would be fees for going into the sanctuaries. There would be fees that would amount to the \$80 million. Much like hunters pay a licensing fee to hunt, this would be a way of raising revenues.

Senator HOLLINGS. Where is that suggestion or submission about fees?

Secretary BROWN. It is in the budget proposal.

Senator HOLLINGS. What fee? Where is it? You just used the word "fee." What fee is it? Specifically, who are you going to charge?

Secretary BROWN. The Department's resource user fee proposal contains three basic types of fees: One, a percentage fee on the first sale value of all U.S. commercial landings of fish and shellfish and edible fish products imported into the United States; two, a percentage annual fee on the value of individual harvest shares based on the average gross value per unit weight of authorized landings; and three, cost recovery fees to cover the cost of specific management measures.

Senator HOLLINGS. So, you went up yesterday and you give them \$30 million, and you come back and you charge them fees today. Do you want us to do that?

Secretary BROWN. No; not today, Mr. Chairman. We gave them resources yesterday, or announced we were giving them resources, because we acted through amendment five to curtail fishing. And the fishing has been dramatically depleted for all practical purposes. Just to give you some sense of the conditions of that fishery, they were harvesting about 700,000 gross tons of fish a little more than 20 years ago, and now the harvest is 25,000 gross tons of fish, about a 90-percent decrease.

We need to pay attention. We should have done it much earlier, in fact, to make sure that we can replenish these fish so there would be a sufficient number to be caught in the future.

Senator HOLLINGS. Well, let me yield to Senator Domenici.

Senator DOMENICI. Mr. Chairman, I have to go manage my bill on the floor, and I will just take no more than 7 or 8 minutes and leave some of the questions with my colleague, Senator Stevens.

Mr. Secretary, it is good to be with you again. I am sorry I cannot spend more time. It is a very interesting budget proposal, and it deserves more time than I can give it today. Let me just suggest that you have put the subcommittee in a very difficult position.

Frankly, of the 115 program terminations, Mr. Chairman, I understand that 52 of those terminations are within our jurisdiction, including 46 that are within the National Oceanic and Atmospheric Administration, totaling \$124 million. We have got a couple of user fees here that are not even within our jurisdiction, but we have to assume them in arriving at the budget. That is very difficult.

In addition, it seems like OMB and CBO have some very big differences in terms of estimating outlays of some of the programs. I hope you will personally look at NIST, because I would hate to see such a disparity in the outlays between the OMB and CBO. It is almost a 100-percent variation in terms of outlays with respect to that.

I will leave a series of questions, but I want to tell you that I am concerned about the understated outlays. I am concerned about the Patent and Trademark Office, the reclassification of receipts there. And we will leave you a question so you can answer it.

#### EDA LOAN PROGRAM

Now, there is one small one that could be a major one that I just would like to share some concerns about, the Economic Development Administration has a \$50 million loan program. Frankly, Mr. Chairman and Mr. Secretary, that is one of the few programs that the U.S. Congress has seen fit to terminate over the last 12 years.

The EDA guaranteed loan program was terminated because it had the very worst record in terms of collectability of any of our guaranteed programs—\$450 million in loans were written off with a 77-percent loss on the steel loans, 59 percent in trade adjustment, 27 percent for general EDA-guaranteed loans. And I raise this because you ask for \$50 million to reinstate the program with a little different coloration. And even CBO and OMB would estimate that that is a very expensive guarantee program.

In fact, the subsidy rate is enormous, meaning we expect enormous losses. The subsidy rate is 18.5 percent. And just to put it in perspective, Mr. Chairman, the Small Business Administration guaranteed loan subsidy rate is 2.7 percent. Now, that means if you took that \$50 million, Mr. Secretary, and put it in SBA loans, it would leverage itself into \$1.8 billion in SBA loans, whereas if you put it in EDA, it will generate \$269 million in loans.

I think that is something we have to look at very, very carefully.

I note that the "National Performance Review" savings prescribes a 262,000 FTE employee reduction. And if my numbers are right, the entire Commerce Department took 29 FTE reductions, full-time employee reductions, out of 262,000-plus for the entire Government.

Now, frankly, I am not sure that FTE reduction proposal is going to work. But I think at some point you might answer for the record why Commerce does not get a few more compared to other agencies in the Federal Government.

Defense conversion, I hope you are watching it carefully so that it does not get—that it has some real examination for potential success and is not just grants to give money to people. And then, last, I thank you for following through on what we did in making the defense conversion available for Department of Energy closures, as well as Department of Defense closures.

Mr. Chairman, I will leave these questions to be submitted, and I thank you for giving me the time.

Senator HOLLINGS. Yes, Mr. Secretary, the EDA loan guaranty program Senator Domenici refers to, I had an experience where the administration came some years back and said, let us make loans to a lot of big steel companies. And the taxpayers were left holding

the bag for over \$400 million in defaults, so that is why we are very askance of that—not askance, just wondering. I want to see the Commerce Department list of fees. I have no idea if we will pass them, but I mean just to give us the rhetoric. That is just poor budgeteering, asking some \$80 million in increases and just saying some fees will be raised. Well, what kind of license are you going to charge what ship of what size? Where is that schedule of fees?

Secretary BROWN. We would be glad to provide that, Mr. Chairman.

[The information follows:]

#### MAGNUSON USER FEE PROPOSAL

The Department's resource user fee proposal will be submitted as part of the Administration's proposal for reauthorization of the Magnuson Fishery Conservation and Management Act. A proposal is being developed in concert with representatives of the Congress and industry-constituent groups to develop a proposal which is both fair and practical. Our guiding principles in developing these fees include the idea that the fees be reasonable and not represent an onerous burden and that revenues generated by the fees be used to benefit the people paying the fees. We expect to have a proposal submitted to Congress in the very near future in association with the reauthorization of the Magnuson Act.

#### MAGNUSON ACT

Secretary BROWN. As you know, under the Magnuson Act, that is certainly appropriate for us to do.

Senator HOLLINGS. Senator Magnuson never thought of it. I knew Warren Magnuson and worked with him closely.

Secretary BROWN. We are permitted to do it, Mr. Chairman, under the Magnuson Act. We are now trying to come up with ways that we would lay it out in a reasonable and responsive way. We think that it is an appropriate action just as other fees and Government charges are appropriate fees for consumers and those who use our resources. We think it makes sense. We frankly think we are going to have to do a lot more of that as a part of our budget-tightening measures.

Senator HOLLINGS. Well, on yesterday you give them \$30 million, and then come back today and charge them fees.

Secretary BROWN. The thing is, Mr. Chairman, the money goes back into fisheries. This is earmarked money.

Senator HOLLINGS. This reminds me when the insurance company, Capital Life, they had a slogan that said, "Capital Life pats you on the back, they do not take it away." I want to see your fees like the patent and trademark gimmicks.

Now, here we have got the Patent and Trademark Office [PTO], \$88 million. Right this minute, the 1994 appropriation of \$88 million for PTO, and then you request zero for them, and then, propose more fees again. I do not know, seems like you have got some fee virus over there. And any fee is under the jurisdiction of the Senate Judiciary Committee. That has nothing to do with us in Appropriations.

Secretary BROWN. Mr. Chairman, if it is anything, it is not a gimmick. Frankly, it was a gimmick before when fees were charged for the users of the service. They were put in a pot so the users of the service had no influence on where those fees went. These fees are now earmarked directly to provide services for those who

pay the fees. And, therefore, there is no impact on the Federal budget. We think it is a sound way to proceed.

Senator HOLLINGS. You and I are talking about two different things. The Patent Office has always paid for itself. In fact, it draws in more money than it actually costs. However, the fees now that were put in go to the general fund of the Treasury and are under the Judiciary Committee's jurisdiction, and it is not under this bill. We do not have a dollar. We get none of it. And that is the way the CBO scores it. And that is the way everyone scores it. It is clear under the Budget Act. That is what I am talking about.

Secretary BROWN. You are certainly correct, Mr. Chairman, as far as scoring is concerned, as far as the practical impact is concerned.

Senator HOLLINGS. That is the practical impact. That is the subcommittee. That is what we are talking about, the practical impact. We are with you on that. But the practical impact is we do not have the money and you cut the Patent Office.

Secretary BROWN. Mr. Chairman, the money that is paid by users goes to the Patent Office.

Senator HOLLINGS. These fees are not under this subcommittee's jurisdiction. You are making a request to this Appropriations subcommittee to take fees from Treasury and I do not have the money. That is what I am talking about.

Let me get right to the basic difference that I find with respect to all of us on this export, export, export, export. We can really—and you particularly—can create way more jobs on worrying about the import growth than worrying about the export growth.

Specifically, we are in a hog-tied situation on GATT with fast track. As a Senator who is not on the Finance Committee, we do not have anything we can do about amending it, but the gimmick is the Senate Finance Committee and the House Ways and Means Committee, they markup a proposed GATT implementation. And after they mark it up, they send it back. Then the administration gives us the official implementation. And when they give that official implementation, no one can amend it.

#### EXPORT SALES PRICE OFFSET AND PROFIT REDUCTION

Now, therein is where the Secretary of Commerce can really do a wonderful job. For one thing, let us go over to the matter of the export sales price offset and profit reduction. All the members of GATT, the 114 signatories, back in December, they all, except the United States of America, did not add on the sales price offset, and they do not add on the profits.

We have had cases go—and in the *Smith-Corona* case on the excess sales offset, specifically, you can take a dollar article and sell it for a dollar, and they can sell it for 75 cents to a subsidiary, and the 25 cents is made up in the market share, taking over the market share and everything else like that.

In terms of dumping, they just have a heyday with that one on that sales price offset. All the costs, the television, the promotional cost, and everything of that kind. And they can sell it for a dollar. But they use that 25 cents, similarly, with the profits. They use their profits in a similar fashion, and we have been giving them that advantage. And our importers, in other words, they had that

advantage. And the American consumers and everything else, on the actual production and jobs, we are just losing them like gangbusters, at the rate of 25 percent. And you can do it under the *Timken* and *Smith-Corona* cases.

Secretary BROWN. And we ought to review that, Mr. Chairman.

Senator HOLLINGS. Let us do that. You told me that when you got confirmed. What we have got to do is to get our good Secretary to help us now to really create jobs, rather than get into the lingo of export, export, export. We love exports. I export magnetic resonance imagers made in South Carolina. I have taken over the market from Toshiba. GE and a little plant down there in Florence, SC.

I have got the Jacobs Chuck Co., for machine tools. They have got a contract and sell more in Japan than the Japanese manufacturer of these chucks. And so I know about exports, and I love them, too, but not near so much as this particular disadvantage to our manufacturers here in the United States.

Secretary BROWN. I know, Mr. Chairman, you raised a similar question before your committee. We have had a discussion since then. I read the Ambassador's response to the question in his hearing. And I have indicated, as I did today, and I might have said that to you 1 year ago in my confirmation hearing, it is the first time the question has come back to me. I think you have made a good point. I think we should review it.

It is absolutely GATT legal. It would make the antidumping margins larger. And I am indicating to you for the record that it is something we are looking closely at. And we will certainly take your concerns into consideration.

Senator HOLLINGS. Well, you know, the export growth has been 3 percent, and the import growth last year was 10 percent. It is like someone is trying to write an upbeat article the other day in the *Journal of Commerce* down home about how we were selling—we know about selling textiles and exporting automobiles. We have been doing it for years like that, all the way to Tokyo.

But when we started with the textile bill back in 1981, Europe had a deficit in the balance of textile trade of \$4 billion. We had a deficit in the balance of textile trade of minus \$4 billion. So we had the same thing. But the Europeans had less than a \$1 billion over in Europe, where our \$4 billion has gone to \$13.1 billion. Can you imagine just in textiles? And you are talking about the automobiles deficit balance.

#### FOREIGN TRADE ZONES

Let me ask one other question. If we can also look at the matter of the foreign trade zones now. I think there were 190, and there has been an abuse—and this has been in previous administrations, but there are 245 of these zones. You talk about—and let me read the secret weapon that will not start a trade war—in this business, we hear 10 days ago, trade zone policy, which is under review by Commerce officials, helps explain why auto parts and accessories now account for two-thirds of trade deficits.

Japanese companies, citing quality concerns, resist buying American components. But some trade experts argue that if Washington threatened to reduce the benefits of trade zones, the Japanese companies would change their tune and buy American, shrinking the

trade deficit considerably—and on and on. And I will give this to you to read, but what happens is they are supposed to put it in a foreign trade zone and assemble the parts and export. What they do is bring in foreign parts, assemble them, and put them into the domestic markets. It is a total adulteration and it is putting us out of business.

And then, we are talking about exports, exports, exports. It is these imports that is the violation of the free trade zone policy. Would you look at that for us?

Secretary BROWN. Mr. Chairman, first of all, I could not agree with you more; that you cannot justify that. I think exports are crucial to our effort to help the economy grow and create jobs. And imports are certainly very important as well. We are reviewing it. My own judgment is that those applications have been approved in a fairly perfunctory manner.

I have been looking at those that have not been approved and have not been able to find very many. And so we are reviewing the process of review in line with the concern that you have raised, Mr. Chairman.

Senator HOLLINGS. They moved, for example, a little free trade zone up in Perry, GA, and they started making golf carts.

Now, the golf cart manufacturer was up in the Augusta area, and we had 3,500 employees. We imported the Mitsubishi engine and we paid the tariff on it. But when they put the free trade zone up in Perry, GA, thereupon, they took those and now they have only got 1,000 jobs in the whole thing and the rest of them have gone broke.

That is what free trade zones and the Department of Commerce did. They put good jobs out of business by importing those foreign parts in violation, really, of the principle of a free trade zone.

Do you see what I am saying? I mean we have had the experience.

Experience, let me yield to Senator Stevens.

#### NATIONAL COMPETITIVENESS ACT OF 1993

Senator STEVENS. Mr. Secretary, I am pleased to be here.

Let me first ask you about Senate bill 4. I discussed this with the chairman when we were talking about that bill on the floor. Before your administration, the Department of Commerce made a whole series of loans to build new ships for the fishing industry. And, as a matter of fact, we are now overbuilt. I think around the United States there is more fishing gear, particularly vessels, than we need.

I have asked him to help me to make sure that none of this new money will be used to build more of those ships or refinance the old ones, or modernize them. We do need some shore-based facilities to process our fish so they do not have to be sent offshore to be processed, but we certainly do not need any more of the big factory trawlers.

I think that was one of the problems you saw in the Northeast yesterday. And I congratulate you for doing that.

Incidentally, they had the power to do what we did, which is to manage our fisheries, they just will not manage their fisheries in New England.

Do you have any objection if we make certain that your agency cannot use that money to go into building more fishing vessels? A lot of them are going to fail in the next few years. That is for sure. But I do not think that money or the money you are going to get working with SBA, ought to be used to step into that area and increase the problem in the fisheries.

Secretary BROWN. Let me just say, Senator Stevens, that there certainly was no intent, as we were talking about Senate bill 4, to have the resources from Senate bill 4 used for that purpose.

Senator STEVENS. And I know Senator Danforth got a little mad at me when I told him. But your Department, if Senate bill 4 works, will have freed up a lot of money within the existing budget that we are working on right now.

Senator HOLLINGS. We want to make sure, but there is no money requested under this present budget for any fishing vessel financing at all?

Senator STEVENS. That is what I want, not just Senate bill 4, but I do not want the Department to go back into building new boats. It is a revolving loan fund, Mr. Chairman.

Senator HOLLINGS. There is none requested at this minute, and we will make sure.

Senator STEVENS. We had an agreement with the last administration informally that there would be no more of those boat loans, but I would like to see that become official policy now by the Congress and the administration to put that group out there on notice that they are not going to get more boats or any refinancing or any modernization money for that fishing fleet out there that is too large already.

Secretary BROWN. Well, first, we can absolutely guarantee that there is not going to be any effort to provide guarantees for over-capitalized fishermen. I mean, that would not make sense. It is clear the situation I saw yesterday is one that cries out for the conclusion that there are too many boats and too many fishermen.

Senator STEVENS. We have the same thing in Alaska.

Secretary BROWN. That is one of the reasons why there has been the kind of overfishing and depletion of that natural resource. But, certainly, it would not be our intent to do that.

Senator HOLLINGS. Would you yield on that?

Senator STEVENS. Yes, sir.

Senator HOLLINGS. Senator Stevens is an expert on this. He took me up there. And, Mr. Secretary, we were up there with Secretary Babbitt last year. And what has really occurred over the years, obviously, is these little fishing fleets developed in all these little villages and towns along the coast of Alaska. And that is what we financed—the whole town and everything else.

Along comes this kind of financing down in Seattle, and they get these factory ships and fishing trawlers, and they are factories it looks like to me, because they just scoop them up on one end and spit them out at the other, all the waste and everything else. And they are really killing the oceans up there.

And it would be terribly disastrous to finance any more of those. I mean, they just put them all there and all the little small fishermen and everything else are drying up. They try to go out to work

and bring them back in. And you talk about jobs—that is really what is killing us up there.

Excuse me. I apologize. I did not want to interrupt.

Senator STEVENS. Well, if we have an agreement, we will work it out. And we certainly do not mean to tie your hands in terms of areas where there are underutilized fisheries. But I do not know of any, frankly. Maybe NOAA does, but I do not know of any.

Sixty percent of all the fish that is harvested off the United States is harvested off Alaska. And I will talk to you about that, about fees, but we do not need any more gear—that is for sure. We do not need any more boats. We may need some processing at on-shore sites.

Let me slip over, if I may, to the NTIA area and the PTFP program, which is the facilities financing program. You have had your representative up to testify before the Commerce Committee, Larry Irving, and he certainly has our support. But I think that I may have embarrassed him a little bit because of the fact that the authorization that is before us now, \$10.74 million, is really not adequate to continue to do what the program was intended to do. And that is to reach out to underserved areas.

For instance, I was told that just a small grant that was applied for in my State, which would have put a translator from one station—Anvik—to Grayling, Holy Cross, and Shageluk. Now, those are three areas that have no—they just have absolutely no communications capability right now. They are not receiving the news of the world.

I ask you to go back and look at that. They are going to resubmit an application, but the problem is that this \$10.74 million is just not adequate to replace equipment that is going to be replaced in the urban centers and, at the same time, continue our congressional mandate to go to underserved areas.

Senator HOLLINGS. It is a cut from \$24 million down to \$10 million. You cut \$14 million out of it.

Senator STEVENS. It is a substantial cut. And I would really like to ask you to take a look at that again, Mr. Secretary, because I think we ought to do better, particularly because there is just an overwhelming demand within the existing areas. They are going to go to digital. We know they are going to go to digital. There will not be any money to take these little villages into even the past generation of capability.

Secretary BROWN. We certainly will take a look at that. Our purpose, really, with this figure is to deal almost exclusively with these underutilized, underserved areas that you are making reference to. We will take a look at that.

If I could just quickly, Senator, go back to your last question, because I want to be clear. In view of my time in New England yesterday, there is nothing in the 1995 budget, so I can make that kind of commitment to you in regard to your question. But a part of what we were talking about yesterday and have for some time is how can we help some of these fishing communities by retrofitting their present vessels so that they can fish for underutilized species which they are not capable of fishing for now.

So, there was some discussion about that—nothing to do with Senate bill 4, nothing to do with technology.

Senator STEVENS. Mr. Secretary, if you have a depressed fishing area and you can do anything to assist them, I would say use the revolving loan fund, use whatever money you have. Because that is a basic industry, particularly in a place like New England or some places I know of down along the gulf. Alaska was just found by the GAO to be the last prolific area that has not been damaged so far by overfishing, but because of the severe overcapitalization in some of our fisheries we are very close to the edge.

I know Dr. Baker is behind you, and he knows about this too.

I would not offer an amendment that would slow down your ability to deal with New England. But I would not want to see any more vessels come up North, or any of those factory trawlers that are already in Alaska refinanced with Government money. Because we know that they are going to have to fall out—some of them are going to fall out. But we will talk about that later.

Let me, if I can, talk about your fishing fees. I am belaboring my time here a little bit, but I am a little worried about this. As I said, we have the most prolific fishing area, and we are catching most of the fish—I mean, the fleets off our State are. And yet it appears those fees you are talking about will go to the Treasury and not to the councils or to the areas that pay them on a regional basis.

And on a related note, I have advocated that we have a system of disincentive fees to try and punish those that are wasting our product, that are exceeding the prohibited species and bycatch limits and are literally jettisoning overboard good fish that could be processed, but for the parameters of the vessel, which process to a size.

Did you know that, Mr. Secretary, they say today we are going to process 14-inch fish, and if it is an 8-inch fish or a 20-inch fish, over the side, even though it is good.

Now, we want those fish retained and brought to shore where they can be processed.

Maybe we could put fees in place on that and bring in the same amount of money you want for a while. It would probably be a decreasing fund, though, because pretty soon they will comply, right? But I would support a disincentive fee rather than a fee just on the fishery at large.

Would you consider dealing with that kind of a fee structure, rather than a Federal commercial fishing fee?

Secretary BROWN. Absolutely, we would.

Senator STEVENS. We will be happy to work with you on that. Out our way, the States already collect some fishing fees. They are a basic source of revenue to deal with commercial fisheries. And I think it is the same thing in New England.

And, in effect, if you create a Federal fishing fee, you are going to be absorbing part of the ability of the States to collect the fees. Or you are going to have a redundant fee on some fishing vessels, and that may be too economically tough on them.

I think we really ought to explore this at length with you.

Secretary BROWN. We would be happy to work with you on that.

Senator STEVENS. Are you going to submit legislation to the Commerce Committee on which all three of us serve?

Secretary BROWN. We would be happy to submit legislation to the Commerce Committee on that. We will lay out a plan for the collection of fees and how we get to this figure of \$82 million.

Senator STEVENS. There is a general authorization in the Magnuson Act for you to charge fees, but it was intended to be used only for administrative costs. And there is no way under current law to ensure that the regions who pay the fees benefit directly from them. Now, if you are going to take it to the Treasury, that makes it an even different matter.

Secretary BROWN. Our intention, Senator, is to have it go directly to those who pay the user fees. In other words, directly to provide for preservation of those fisheries.

So, in other words, when you pay the fee as a user, the money is not for general Treasury use. It is the same kind of thing I mentioned in regard to the Patent and Trademark Office.

Senator STEVENS. The level of program that you support increases the budget by only \$60 million, less than the total fee you want to collect from the fishermen this year. You know, that raises a few hairs up here.

Secretary BROWN. We would intend it to still go to the fisheries program, to still go to the fisheries management programs.

Senator STEVENS. I do not have anything against New England. I know they have real problems, but you are going to take it from our fishermen, who are still succeeding in the North Pacific, and take it over to the North Atlantic.

Secretary BROWN. That would not be our intention. I might say, Senator Stevens, one of the most gratifying things to me yesterday—and unfortunately it comes awfully late—is I met with a large group of fishermen, and they were requesting that we close down some fisheries. They were saying to us that we ought to be more aggressive in preserving the environment and preserving their livelihood in future years.

They have been very shortsighted in the past, but I think they finally got the message that there will be no more fish to catch. And there obviously is great alarm in Massachusetts, Maine, Rhode Island, and Connecticut, those States where the fisheries have been hit hard. We have got to find a way to, I think, ramp up things like the aquaculture and ways to regenerate these species of fish that have been almost totally depleted.

Senator STEVENS. A lot of them are depleted because of practices that we have been able to address in the North Pacific. And they just will not change in New England. I hope we can get some change. But I am basically concerned that the fee program you propose may be counterproductive to what we would like to do. And that is to use fees to convince the industry to be more concerned about waste, to be more concerned about discards, and to really be a disincentive to those people who are not following good conservation practices.

The Magnuson Act, Mr. Secretary, was passed to protect the fish, not the fishermen. And Senator Hollings and I have worked together for 25 years now to try and protect the fish. If you want to work with us on a fee program that will protect the fish and get you some money, then I think we are ready to work with you.

Secretary BROWN. Absolutely, we share your goals and the chairman's goals, Senator Stevens. And we are anxious to work with you to make sure that the proposals we submit meet those goals.

Senator STEVENS. Senator Domenici had a specific question for the record he would like you to answer.

Senator HOLLINGS. Thank you.

Senator Kerrey.

Senator KERREY. Mr. Secretary, welcome to the committee.

I have little interest in fish. I do want to support the chairman and the distinguished Senator from Alaska in their efforts.

Senator STEVENS. Well, you are so good looking, you must eat some of it. [Laughter.]

#### COMMERCE'S ROLE IN EXPORT PROMOTION

Senator KERREY. First, Mr. Secretary, there has been a lot of interest in water in this town of late. And it is a curious interest and very distracting. I would point out to people who may not have noticed that it was not long ago that the Department of Commerce was really a backwater. And there was a lot of talk and not a lot of action on behalf of American jobs. And that has really changed in a dramatic fashion.

I praise you and the President for the support you have received and the President obviously is very strong, and all of a sudden Commerce is out there on the front lines promoting exports, changing our export policies so we can export high technologies.

I know that you took a very leading role, and I praise you for that, as well, in allowing our companies to supply and promote sensing satellites to intelligence efforts to sell those images, those one-meter images on the market. And I know and appreciate the national security concerns there. But all of a sudden the Department of Commerce is no longer a backwater.

All of a sudden we have water flowing hard in the direction of increased American jobs. And we are concerned about trying to promote jobs. And we are concerned about forging a partnership with American businesses. We are concerned about trying to form alliances with our Embassies throughout the world.

And I just must say that I hear constantly people praising that change and that focus, that willingness to pay attention to results. And I am very grateful.

The chairman of this Appropriations subcommittee, similarly, has been joining with the administration on Senate bill 4. That should not have been a hard-fought battle. It was a hard-fought battle. It will unquestionably increase American competitiveness.

Every single person who has looked at what needs to be done to increase the number of jobs and increase the number of high-paying jobs in America say technology is the key. The capacity to develop technology and the capacity to train our work force will determine not only how competitive we are, but will determine how successful we are in closing the gap between the haves and the have-nots in this country—those who have skills, who are earning good money today and those without skills that are struggling hand to mouth to make ends meet.

The chairman's legislation, Senate bill 1822, I think similarly, obviously, is a very aggressive effort to promote competition and

promote competitive growth in American jobs. And so, both to you and the chairman, I appreciate very much the change that has occurred in this Government's attitude toward the promotion of American jobs.

I would say, sort of parenthetically, and I guess in an editorial comment, that as I look at the President's budget, we have approximately a \$50 billion increase year to year. The net interest figure and the decline in discretionary spending about offset each other. In other words, we have an increase in net interest and a decline in discretionary spending, which is what we are doing here—approximately offset each other.

Almost every single dollar increase, every single dollar increase in this budget goes to entitlements. And of those entitlements, about \$30 billion of it is health care and \$20 billion of it is retirement—\$50 billion, Mr. Secretary. I point that out to colleagues on the committee, as well, because we probably will not debate either one of those two items. We have got a \$50 billion increase in health care and a \$20 billion increase in retirement, and that will not even make the newspapers.

We are going to be debating should we put \$30 million into public television facilities. You know, we will be debating at the margin. We will be promoting the development of our job base and our economy. And I just hope that we are able this year to say to the American people that if we continue this transfer payment of entitlements, this growth of the entitlement programs, as it is going right now, not only are we undercutting our economic base, but, in the end, we endanger our ability to be able to provide a safety net.

And that is an editorial comment that I make. Because, very often in these appropriations debates, Mr. Chairman, the public and the press is focused on the \$10 million here and the \$30 million there. And these are significant items. These are taxpayer moneys, and we ought to be careful with them. But left sort of in the shadows of this debate is this huge problem.

And I appreciate, again, the President's willingness to address that, and I hope we are able to do something this year.

The promise of this technology, as I indicated, seems to be, Mr. Secretary, both jobs and, for me, the promise of the technology is also a greater informed citizenry and improved quality of education. I am very much interested in information technology. I appreciate your coming to Nebraska in the Challenge Conference we had on May 25.

Mr. Chairman, I have a series of questions that I would like to have submitted for the record and answered. I will not go through them.

Senator HOLLINGS. They will be included.

Senator KERREY. I have a number of questions, Mr. Secretary, addressed to our concerns of what kind of partnership can we form in a State that is largely rural, historically agricultural. And we are trying to move beyond that. We are trying to target industries that we think are developing and make good sense for us. And we are trying to target our research at our university to make sure that we can support those industries that we would like to promote.

And I have a series of questions having to do with NIST and NTIA and the granting process and the ATP granting process. And when you come out on May 21, perhaps we can hold a meeting with some Nebraska business people that are in the technology businesses to talk about what kinds of things they need to do. What does our State government need to do? What kind of maintenance of effort is required at the State level? So that we can be real partners in I think a very exciting and reenergized Department.

#### INFORMATION INFRASTRUCTURE GRANTS

The next thing I would like to talk about is this whole area of education—and I appreciate the chairman's willingness to hold a hearing on Senate bill 1822, on education. Let me just point out, Mr. Secretary, you have in the information infrastructure grants an increase—I think \$26 million to \$100 million. One of the things that I would point out, and you will hear it on May 21, is that there are various ways for us to finance this upgrade in infrastructure that is needed for schools, needed for health care, needed for libraries, and needed for various sectors that could be left out—particularly schools.

I am focusing on, particularly in schools, I think K through 12. I can finance the upgrade with property taxes. And I am sure you noticed what happened in Michigan here recently. The same is true in Nebraska. Our property tax costs right now are about 170 percent of the national average—very high. It is unlikely that we are going to finance upgrades with the property tax. We can finance it with payroll taxes, which is also very unlikely right now given the regressive nature and the bad problems that occur to the economy, in my judgment, when you seek that course.

Or we can pay for it with sales and income taxes, which is basically what we are doing here. We are using some kind of Federal income taxes, some kind of user general fund to finance this.

There is another possibility, Mr. Secretary, and I will just bring it to your attention, and that is to challenge the private sector, to say to the private sector companies, look, we are moving from a regulated monopoly into the competitive environment. We have done it with long distance since 1984, with the divestiture of AT&T. We are proposing to do the same sort of thing, thanks to the chairman's leadership in local phone service.

But you are not going to be able, we should say to the private sector, the phone companies are not going to be able to ramp up that connectivity unless we consider some innovative ways to finance it. I think we need to challenge the private sector to help us engineer the connectivity requirements. My own judgment is the schools need to have at least T-1 connectivity. They need to have a high bandwidth connectivity inside the classroom. We need to engineer it. We need to price it. And then we need to discuss how we are going to finance it.

Because if we just do it with grants and we just do it with property taxes and we just do it with nickel and dimes, what is going to happen is I think these schools are going to get left out unless we take them all as a bunch. We have got 100,000 customers out there, 45 million students, and 16,000 individual school districts. And it seems to me, in the mix there is some kind of a challenge

we can put to the private sector to say, help us engineer it and help us price it. We will talk about regulatory changes, perhaps, that are needed to get the job done.

My own view is that as a taxpayer I would much sooner pay an extra dollar or two or three or whatever it would take per month on my phone bill or my cable bill in order to be able to finance it.

Now, maybe others will feel differently about it, but that is one possible way to finance it.

I am really concerned, Mr. Secretary, that we are not going to get ramped up fast enough on the information highway with our schools unless we think about some innovative way to engineer, to price, and then to finance that infrastructure investment.

#### COMMERCE COLLABORATES WITH OTHER AGENCIES

The last thing I would say—and this is not in the questions and answers—I apologize if you are chomping at the bit to answer questions—I have submitted questions. I am more using this opportunity to describe my point of view.

There really is an urgent need to train people—and you know that. You have dealt with it for years and you know what is going on out there. I mean, we really are splitting the economy into those who have skills and those who do not. And I point out that there is some opportunity I think for Commerce to collaborate with other agencies. We had the National Science Foundation before our committee. And the President has a large increase in the computer initiative and a large increase in the global warming initiative.

And I appreciate that both of those could be good. But my own view is that on the computer side the marketplace is allocating all the resources we need. And that one of the things that NSF does extremely well is work with local communities in building our training capacity. They are an awfully good partner I think. And I would suggest to you they would be a tremendous partner to Commerce.

I am going to fight on the HUD-Independent Agencies Subcommittee to change the allocation so we can get more education and training money. And I would suggest, as well, that HUD is a good partner, the HUD special grants.

I saw the President at the G-7 meeting in Detroit. And the HUD special grant program, I mean, that is a winner. I would take taxpayers to Detroit and say, Father Cunningham may be a lousy manager, but he got people that are filling the slack there. He has got great dreams. And it is working. These are people who would not have jobs, had not had skills, and many of them are high school graduates that are coming into the work force. And he has got to retrain them so that they can redo mathematics.

I mean, I really would urge you, Mr. Secretary, to think about a partnership with HUD and with NSF. And I will support, from my standpoint, on that other committee some additional allocation of resources so we can do the work that I think most business people want. And most business people are saying, I have got people coming into the work force right now that cannot do multistep mathematics and cannot do fractions, that do not have the skills necessary.

So, I put that out.

A third thing, the last thing, and then I will take a breather and let you comment if you want. It is clear in the ramping down of our defense budget that in order to maintain our technological edge we are going to have to have dual-use applications.

You have really been awfully good in promoting that. Secretary Perry's decision to change the export licensing requirements I think is a very sound thing to do. It enables us to sell in the marketplace while maintaining our technological edge on the private sector side. And I alert you, Mr. Secretary, to an idea that I have to do the same thing with our intelligence effort.

We have technology we invest in. We have remote sensing technology to invest in, all of which is to inform several thousand decisionmakers in Washington, DC, that have top secret clearances and are supposed to be privy to this kind of information. I have got 100 million households out there of citizens. And one of the deepest fears that I have right now is that the nature and the difficulty of the decision for citizens is going up and our capacity to make decisions is going down.

And I see an opportunity, Mr. Secretary, to build a serving institution to inform citizens, not just to give them information. And I would alert anybody that is back here that is involved with opening data bases up, giving a citizen information is not the same thing as informing a citizen. Informing a citizen means I have an active responsibility. I do not think I can privatize that, by the way, Mr. Secretary. I want the private sector to take advantage of it. But I have a sacred obligation to inform that citizen.

And I really am excited about the possibility of that technology of improving the capacity of the citizenry to make decisions. And perhaps at some later time we could talk about that. Obviously, I did not ask you a single question other than the ones I am submitting.

I praise, again, your work. And I praise, again, the chairman's work. The Department of Commerce unquestionably was a backwater. It unquestionably was not activist. It was criticized by an awful lot of people in the past. I hear very few criticisms today. I hear, instead, an awful lot of excitement about what you are doing in trade and what you are doing here at home to promote technology and promote economic growth. And I am very grateful for it.

Secretary BROWN. Thank you very much, Senator Kerrey.

First, thank you for your kind words about the Department, about my leadership of it. Since the President announced his intention to nominate me as Secretary of Commerce and said publicly he wanted me to make the Department of Commerce a powerhouse, I have worked very hard to try to do that.

I must admit that Chairman Hollings always urges me to be aggressive in that regard, because we play, I think, a very significant role in our efforts to create economic growth and the kinds of high-wage, high-quality jobs the American people want and deserve. You have known me for a long time, Senator, and you have known it did not take a lot of urging to make me more aggressive. We are going to keep on working hard to do that.

In the areas that you mentioned, I might just comment briefly. First, this whole idea of interagency coordination, I think we have

made giant strides in doing that. You point out one area, which is the massive change in the export control regime. That would not have taken place if the Department of Commerce was not working closely with the Department of Defense and the National Security Agency and the State Department and others.

Through our Trade Promotion Coordinating Committee process we have made major, major strides on decontrolling the supercomputers and electronic telecommunications equipment. The remote sensing issue you just raised is one that required very significant interagency coordination and dialog.

#### INFORMATION SUPERHIGHWAY

On your focus on the information superhighway, we absolutely are committed to assuring that we do not create a society of information haves and information have-nots. And that is why the President has made a commitment to make sure that by the year 2000, every school, every hospital, every clinic, every library is hooked into the information superhighway. That is one of the things we are trying to do through NTIA, through the grant process, to try to drive demand, again, Senator Kerrey, to create this partnership between the public and private sector that is going to be crucial to economic growth and getting the private sector to take on some of this responsibility.

Part of the purpose of this partnership is so that we can coordinate our efforts more effectively, and the Government can do what it does best, and we can get out of the way of the private sector when that is appropriate and have them do what they do best.

It is clear that the private sector has to lead our effort to create these new economic opportunities and to create sustained economic growth in our country. And we will challenge them to do that. It is hard to challenge them when there is not an atmosphere or environment of mutual respect and trust that we think we are building. And we think we are building that kind of dynamic now for our outreach effort.

They have been very impressed with our Export Promotion Act and our national export strategy, which requires a coordinated public/private sector set of actions. And I think that they have clearly begun to bear fruit.

On the issue of education and your call for collaboration, there is no question about it that it can be a key to our success. We are working with the National Science Foundation and with the Department of Labor and others to do that. You mentioned specifically Focus Hope. I was with the President at Focus Hope 1 week ago Sunday. I have been there before. I knew it would be an extraordinary experience for him, and that is why I urged him to do it.

Because, once again, it is an example of Government and the private sector working together. It is an example of the Department of Defense, the Department of Labor, the Department of Commerce all providing resources for Focus Hope, a program that works. That goes into an inner city community and uses unused facilities and gets people involved who, heretofore, have been thought not to be motivated, and shares with them the best of American technology, the best in American manufacturing techniques, and provides for

them and their families a real opportunity in the future. Not training them for obsolete jobs, but training them for jobs that will be good jobs in the 21st century.

Senator KERREY. Well, let me follow up on two things you said, Mr. Secretary. One, on the connectivity with schools issue, and I appreciate the President set a goal for the year 2000. I say with great, great respect, I think that is too late. And with the mutual respect and cooperation, I appreciate our trying to establish that with the private sector. But we may have to use a little fear here.

We need to design it. We need to price it. And then we need to debate how to finance it. That is my own one, two, three analysis of what needs to be done. Instead of saying to the private sector in sort of general terms that we want connectivity to occur by the year 2000, I think we have to say very specifically, I have got 100,000 schools, 16,000 districts, there is no district out there, or very few of them, that are going to be able to afford this on their own.

We have got a massive customer base. You go to the long distance companies and telco's and say, you develop it, price it, then we will have a public debate about how to finance it.

A follow on about Focus Hope. There is significant deterioration of hope out there in low-income Americans, a significant deterioration of hope. And I know we give a great deal of hope very often when somebody gets a grant. I have seen grants be awarded to private sector businesses, and they get all excited, and universities get all excited. We give them hope when we provide resources to them.

And I think we have to give hope to those low-skilled Americans by saying to them that we are going to make sure that we allocate resources where the market will not allocate resources. If the market is going to allocate the resources, then we are not going to do it, I do not care who comes to Washington, DC, and says to us that they need this grant or that grant.

We have got significant numbers of low-income Americans out there that have no hope at all. And I really believe that you are in a position, both from your own personal background and your own commitment in this area, to lead, to get NSF to pull in that direction, to get HUD to pull in that direction, to get the Department of Labor to pull in that direction. I mean, I not only do not deny your aggressive nature, I admire it. And I admire, behind that aggressive nature, a real strong desire to bring hope to people for whom hope is a deteriorating phenomenon.

Senator HOLLINGS. Thank you very much, Bob.

Senator Hatfield.

Senator HATFIELD. Thank you, Mr. Chairman.

Senator HOLLINGS. There is a real educator right there.

Senator HATFIELD. Mr. Secretary, in the President's admonition to make the Department of Commerce a powerhouse, once again, do you have a particular role model that you have used?

Secretary BROWN. You have to go back so far in history, Senator, I do not know. Clearly, Malcolm Baldrige had an extraordinary impact.

Senator HATFIELD. What would be your role model?

Secretary BROWN. I do not know that I have an individual role model. I have a clear vision.

Senator HATFIELD. Do you know the history of the Department?  
Secretary BROWN. I know Herbert Hoover was a very significant factor.

Senator HATFIELD. I am very happy to hear a Democrat use that name. [Laughter.]

#### NATURAL RESOURCE BASE IN NORTHWEST

Mr. Secretary, last year about this time you were getting ready to depart for Portland, OR, with the President and a group of his team to have a summit on the timber issue and the whole natural resource base in the Northwest. And as you know—in fact, I have the testimony here as well—we agreed that fisheries were an important, vital part of that natural resource base in the Northwest.

You cannot revitalize an ecosystem without incorporating the fisheries. And I want to compliment you that, in a news release yesterday, you have recognized this and released \$30 million to the Northeast for the economic hardships that New England fishermen face. And in that statement, as well as the \$30 million to assist them, you said that we must reduce fishing efforts for ground fish and scallops by 50 percent over the next 5 to 7 years.

I compliment you on recognizing that particular problem. But let me also—and not in any way to diminish the problem there, because it is a serious problem in the Northeast, but let me just recite to you a couple of statistics. The largest salmon run on the west coast is the coho salmon. In 1991, there were about 820,000 caught in that one season. In 1992, it dropped to a little over 400,000. In 1993, it dropped to 146,000. In that period of time, that is about an 82-percent drop.

The commercial fishing trawl industry has diminished 98 percent. We have four salmon—even though that is the largest, it is indicative of the whole situation—we have four salmon species now listed under the Endangered Species Act. And I would say that, taking those statistics should illustrate to you the seriousness of the problem in the Northwest.

And yet, Mr. Secretary, as I read your budget for 1995, you have zero—zero—funding for Mitchell Act hatcheries. The Mitchell Act was established at the time of the Bonneville Dam, the first of the dams that would include fish mitigation. The Mitchell Act was named for an outstanding Senator who was concerned about mitigating the fish loss due to the dams.

The hatcheries provide about 25 percent of the salmon in that river. And you zeroed out any money for that.

Now, I understand the administration has said, well, maybe we should have the ratepayers pay for that mitigation. And yet, Mr. Secretary, there is not one dime of increase in the Bonneville Power Administration budget to offset your zeroing out the Mitchell Act in the Department of Commerce.

Now, I am trying to work as a member of the Republican Party with this administration in every way I can, especially the natural resource areas. Secretary Babbitt was in my office yesterday talking about mining reform, talking about grazing fees. And I am trying to be very helpful to resolve these issues. But what can I say to the people in the Northwest that I represent about this administration abandoning the Mitchell Act?

It is not the first administration, by the way, to do this, but certainly this administration that has been so much in hands-on on that resource problem we have in the Northwest, and now it is an abandonment of any kind of support for restoration, mitigation of a very important natural resource.

Secretary BROWN. Senator, first, I appreciate your very kind remarks about the announcement we made up in New England yesterday and about the Commerce Department generally. I need to review that specific line item in the budget.

I will say, though, that we have requested an additional \$50 million to rebuild our fisheries in the NOAA budget. And, as I understand it, there is another \$2.2 million in another line which would achieve the same purpose. Also, it had been our intention, I think, as you know, to transfer financial support of the Columbia River hatcheries to the BPA.

As it turns out, that is not going to be possible for the reason you articulated—that there is not adequate budget resources in their budget to do it. So, we have reconsidered that intention.

I will take a look at that specific line, but I assure you that there is no decommitment.

Senator HATFIELD. I am not trying to surprise you on this. I will be happy to wait for your review, because I think it is a very significant matter.

Senator Hollings has been on this committee longer than I. And Senator Magnuson was the chairman of this committee for a number of years. I followed Senator Magnuson for 6 years. And I think the Department is playing games with us, because they knew with Senator Magnuson on the committee he would put it back in rather than having to count it against your own budget.

And so it was true, under Presidents Reagan and Bush, they knew I was sitting here. And so, I am not saying this is the first administration to excise it. In fact, the only administration in my period of time was the last year of the Bush administration that did fund it, knowing that we would have to put it back in.

But I think as the distinction of this administration that its public image is it wants to be hands-on involved in the resolution of these natural resource questions, and it seems to me totally contradictory to what the administration's image is out there.

Secretary BROWN. Well, Senator, it certainly was not, nor will it ever be our intention to play games on the budget. We will be glad to work with you and review that particular line item.

Senator HATFIELD. Look at all of those particular fish items in NOAA, too, all of those accounts. Because they have all gotten a pretty heavy hit.

Thank you, Mr. Chairman.

Secretary BROWN. We will do that, Senator Hatfield.

#### FISHERIES IN NEW ENGLAND

Senator HOLLINGS. Let me note that the distinguished Senator from Oregon was a big help to us on Senate bill 4, Mr. Secretary. And I have heard the name of Herbert Hoover. Herbert Hoover was a friend of mine. And Herbert Hoover appointed me as a Democrat to the Hoover Commission, which I appreciated.

We investigated all of the intelligence activities back in 1954 and 1955. And we called him the chief. He was really outstanding.

Now, the \$30 million did not get out of this budget yesterday. That came out of the earthquake account from the Los Angeles earthquake emergency supplemental appropriations bill.

Now, how you get fisheries in New England, and you talk about a facile fellow. I mean, this Secretary is outstanding.

Senator HATFIELD. That was under the discretionary part of that funding.

Senator HOLLINGS. The earthquake discretion?

Secretary BROWN. The disaster discretion.

Senator HOLLINGS. I have to find out what the earthquake did in my backyard. [Laughter.]

But you did eliminate the Columbia River hatcheries of \$10.3 million, the Columbia River facilities of \$8.2 million, and that was \$18.5 million of the NOAA cut of \$191 million.

Mr. Secretary, you can imagine, here I am and we have got a subcommittee, and we are getting ready to move forward. And I hail all of the complimentary comments made. I agree with them. I think you are alive and moving and working hard and giving tremendous leadership.

But then, budgetarily—and you cut \$191 million out of NOAA—all of those projects, and we are going to have a special hearing and you have got an outstanding Administrator of NOAA in Dr. Baker, who is for change, and, by gosh, he knows his apples or he knows all about the oceans and everything else. And we do not want to cut him. We want to help him. And then you have got in here unspecified user fees.

And I heard that dichotomy about maybe I can tell you no fees will be passed to enhance the councils. That is why we have not passed it for 25 years. They are not going to pass fees for the Patent Office, which, by the way, the Patent Office pays for itself. The Securities and Exchange Commission, with its fees, pays for itself under this subcommittee.

The DEA, the Drug Enforcement Administration, is a money making operation. If we get all the seizures and the bank accounts, the yachts, the homes, the estates, then we sell them and we make more money.

So, these are the kinds of things that, as a budgeteer and an appropriator, I am looking at. And I am saying, heavens above, the Patent Office is zeroed out. It is the one entity in the Commerce budget that pays for itself. And they say, by the way, they are supposed to get the money over from the Judiciary Committee. Try it. I mean, they do not give us that money. Then that budget allocation is not there.

You have cut the NOAA fleet modernization program some \$50 million, and the EDA \$50 million. We have \$467 million or \$500 million in cuts in here. And immediately I am trying to say, wait a minute, we have got to replace a good bit of that. And that is the problem. That is a real problem.

You can hear the Senators coming now. And it is in the interest of the fisheries, in all fairness to the fisheries groups up there in New England. They are the ones that overfished it. I mean, the earthquake did not hurt the fish. The earthquake money is getting

them back into it. But they are the ones that overfished the fish in the first place, and we are going to give them the money, and then cut out programs that are working that are not overfished.

On the NOAA fleet infrastructure, for example, you have got a Navy T-AGOS mapping and charting vessel—and I understand that is still over there in Norfolk and it is just tied up at the dock. Is that not right? Nothing has been done to it.

Dr. BAKER. Senator, we have three of the vessels.

Senator HOLLINGS. They are pretty modern. They were built in 1990, is that not right?

Dr. BAKER. Yes; we are using one now as a training vessel. And we are looking at the possibility of converting it to a mapping and charting vessel, although we are also looking at trying to do some of our mapping and charting by going directly to private industry.

So, this is something we are in the process of looking at, to make sure we are making the best use of our available resources.

Senator HOLLINGS. You do not think you are going to use the vessel?

Dr. BAKER. I would say that is under discussion at the moment. We have not made a final decision on that.

#### TERMINATE THE U.S. TOURISM AND TRAVEL ADMINISTRATION

Senator HOLLINGS. Mr. Secretary, jumping to some of these other subjects. Last year, the House voted to terminate the U.S. Tourism and Travel Administration. I think you have an outstanding new administrator from Florida. And yet, with the limited funds, it was just one little thing. What is the USTTA budget, \$17.5 million?

In my experience, like in traveling to Spain, I found that the Foreign Commercial Service promotes tourism. They even run a tourism center in Madrid. You have got an outstanding office there in the Foreign Commercial Service and elsewhere. Why not, rather than spending 65 percent of that little \$17.5 million on foreign USTTA offices, why not just close those offices and let the Foreign Commercial Service take on that added duty? And then, let us use that money for some real effort.

I wish you would look at that. Because I do not think it is paying off. Ask the USTTA Administrator and see what he thinks.

Secretary BROWN. We will look at it, Mr. Chairman. But your concern about the low level of funding is absolutely appropriate. Look at what other countries are doing and what States are doing. We think we have got some hope for breaking through that. As you might recall, about 1 month ago I came into the travel and tourism dinner to announce a White House conference on tourism, which I think is going to give some focus to the fact that tourism, by some accounts, is our biggest export.

Senator HOLLINGS. You know what I remember, and you look it up, Agriculture in export promotion, is \$1 billion. And I know, under the breakdown, Sunkist lemon has got \$17.5 million. We spend as much to get lemons as we do for tourists.

I am saying, heavens above, what kind of Government is this?

Secretary BROWN. You are on the right track, Mr. Chairman. I have recently convened something called the travel policy or the Tourism Policy Council, which mirrors the Trade Promotion Coordinating Committee. And what we discovered is that Agriculture also

has significant resources in tourism—something like 200 to 250 offices around the country that deal in tourism, where, in fact, the Commerce Department is supposed to be the lead agency on travel and tourism. And I think we need to look at that kind of allocation.

#### DEFENSE CONVERSION

Senator HOLLINGS. Well, we have got to do these things now. You can do them. The EDA defense conversion, we had a difficult time in conference last year. I have got a map here of these particular military bases all over the country. And the base closures you can see on that second chart.

And, Mr. Secretary, tell us about that. Can you provide for the record, and not right this minute, a complete list of the base closures and the major impact that it has had and the cutbacks it has had?

Secretary BROWN. Yes.

[The information follows:]

#### JOB IMPACT OF MAJOR BASE CLOSURES

State/installation	Total direct DOD affected jobs	Estimated indirect job loss	Total job loss (direct and indirect)
Arizona: Williams AFB .....	3,702	1,872	5,574
Arkansas: Ira Eaker (Blytheville) AFB .....	3,329	1,087	4,416
California:			
Castle AFB .....	5,579	1,533	7,112
Fort Ord .....	23,822	8,610	32,432
George AFB .....	13,983	5,101	19,084
Mare Island Naval Shipyard .....	14,245	5,517	19,762
MCAS, El Toro .....	9,278	3,570	12,848
MCAS, Tustin .....	2,729	1,300	3,729
NAS, Alameda .....	7,140	3,463	10,603
NAS, Moffett Field .....	5,597	1,541	7,138
Naval hospital, Oakland .....	2,016	858	2,874
Naval Station, Treasure Island .....	3,354	1,507	4,861
Naval Training Center, San Diego .....	15,867	5,594	21,461
Norton AFB .....	5,789	2,250	8,039
Presidio of San Francisco .....	5,405	2,603	8,008
Sacramento Army Depot .....	3,739	1,637	5,376
Colorado: Lowry AFB .....	7,412	3,224	10,636
Florida:			
NAS, Cecil Field .....	4,562	2,157	6,719
Naval Training Center, Orlando .....	17,166	7,570	24,736
Hawaii: NAS, Barbers Point .....	2,428	974	3,402
Illinois:			
Chanute AFB .....	5,747	2,099	7,846
Fort Sheridan .....	3,092	1,481	4,573
NAS, Glenview .....	349	171	520
Indiana:			
Fort Benjamin Harrison .....	3,588	2,091	5,679
Grissom AFB .....	3,292	1,071	4,363
Louisiana:			
England AFB .....	3,611	1,285	4,896
New Orleans Military Ocean Terminal .....	579	292	871
Maine: Loring AFB .....	4,431	1,666	6,097
Massachusetts: Fort Devens .....	7,374	2,939	10,313

## JOB IMPACT OF MAJOR BASE CLOSURES—Continued

State/Installation	Total direct DOD affected jobs	Estimated indirect job loss	Total job loss (direct and indirect)
Michigan:			
K.I. Sawyer AFB .....	3,991	1,268	5,259
NAF Detroit .....	283	134	417
Wurtsmith AFB .....	5,520	1,668	7,188
New Hampshire: Pease AFB .....	3,445	1,399	4,844
New Jersey:			
Fort Dix .....	12,724	5,741	18,465
Naval Air Engineering Center, Lakehurst .....	4,473	2,256	6,729
New Mexico: White Sands Missile Range .....	5,063	2,188	7,251
New York:			
Naval Station, New York (Brooklyn) .....	530	243	773
Plattsburgh AFB .....	4,316	1,169	5,485
Pennsylvania:			
Defense Personnel Support Center .....	7,859	4,508	12,367
Naval Station, Philadelphia .....	15,216	8,449	23,665
South Carolina:			
Myrtle Beach AFB .....	3,612	1,342	4,954
Naval Station, Charleston .....	14,998	11,848	26,846
Texas:			
NAS, Chase Field .....	519	154	673
NAS, Dallas .....	999	483	1,482
Virginia:			
Cameron Station .....	5,833	2,361	8,194
Vint Hill Farms Station .....	1,141	446	1,587
Washington: Naval Station, Puget Sound .....	1,278	662	1,940

Notes: DOD jobs are from DOD Defense Manpower Data Center (DMDC) data, and include full-time military and civilian workers. Indirect jobs are estimated using Department of Commerce, Bureau of Economic Adjustment, RIMMS 2 job multipliers.

## CLOSING REMARKS

Senator HOLLINGS. I use 26,000 lost jobs in Charleston. I think we ought to make a record. On the House side, they just think defense conversion is a California program. You know, they say "that is Secretary Brown's program. He is going to distribute money. It is Presidential politics. It begins in California, ends in California, and they have the Secretary up there running it."

And it is going to get into this defense conversion, I can see it now. Get that data, Mr. Secretary, and let us make a record on it. Because this is the Federal Government that is taking away these jobs, and we ought to have some responsibility in lessening that impact on these communities.

Secretary BROWN. We will certainly provide that for you, Mr. Chairman.

Senator HOLLINGS. I appreciate it.

I can tell you now, you are not going to get fisheries fees. You have got to get that money away from judiciary and put money back into the Patent Office. Because they have been making the money all along.

In NOAA, we are going to have a special hearing on that. But if there is nothing, all you have to do is walk over to the office and get that fellow, or just dictate it yourself on the sales price offset, and say no more adulteration of my free trade zones.

If you really want to bring in the parts to be assembled with American employees and export that particular product, fine. That is what it was intended for. But every one of these new industries come running all the way in and bringing in the parts to import it into the United States free of charge. It is devastating. You have got how many, 245?

They are just all over the place. And we have got to review the ones we have had. And if you review those, you create more jobs—the sales price offset and the profit, plus the free trade zone, which is a responsibility of the Secretary.

Secretary BROWN. You have my commitment on both of those, Mr. Chairman.

#### ADDITIONAL COMMITTEE QUESTIONS

Senator HOLLINGS. Very good. I appreciate it. And let us stay in touch.

Thank you, Mr. Secretary. We will hear additional Commerce Department testimony regarding NOAA and NIST after the Easter recess.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

#### QUESTIONS SUBMITTED BY SENATOR ERNEST F. HOLLINGS

##### EDA/MBDA REORGANIZATIONS

*Question.* EDA's grant approval process is multi-layered, often redundant, and slow. The HUD Community Development Block Grant Program just cuts a check, while EDA takes months and often years to review projects at the State, regional, and headquarters level.

In William Ginsberg, you've found a real talent and put in the first Assistant Secretary in 12 years who believes that his job is not shutting down his agency, but rather making it work.

What organizational and grant processing changes and improvements are you contemplating? When will we see some of these improvements put into place?

*Answer.* No organizational changes are being considered at this time. However, a GAO general management review is currently underway. We expect this review to provide suggestions regarding reengineering the Agency for the future.

In September of 1993, the Agency initiated a pilot grant application process (Pilot). This Pilot involves nine Title IX Defense Conversion projects for which a revised application process (team oriented) and revised application forms have been used. The goal is to reduce application processing time, improve customer satisfaction, assure product quality, and assure organizational accountability. To date, six of the nine projects have been approved. The Pilot will be evaluated for its elimination of duplication of tasks, success in redefining regional and headquarters staff roles along generalists and specialist lines, and reduction in processing time as a result of decentralization of authority. Overall success of the reformed application process will be measured by the substantial reduction in processing time while maintaining EDA accountability and responsiveness.

It is anticipated that the evaluation process will continue through the early part of 1994. Departmental and OMB clearance of the reengineered process, as well as the publication of revised guidelines and staff training in new procedures, will be completed to allow for full implementation of the reengineered process in fiscal year 1995.

*Question.* Mr. Secretary, last year you told me that improving the Minority Business Development Agency was one of your highest priorities. Could you tell me what you have done to make that agency more effective. What are the prospects of getting some new staff over there and moving out some of the "Dead Wood"?

*Answer.* The Minority Business Development Agency has initiated several actions to improve its effectiveness. These actions include: a reorganization proposal based on a more effective and efficient functional configuration; drafting a legislative pro-

posals to codify the agency providing for Congressional oversight; leveraging resources to promote and/or expand programmatic initiatives; training to ensure uniform project monitoring and evaluation practices; and giving greater consideration to candidates outside the agency and government for positions in regional management.

**Question.** Why does the President's empowerment zone initiative exclude MBDA? Everything that we've seen on the program has Erskine Bowles and SBA setting up more one stop shops and small business development centers in inner cities, and it doesn't say anything about MBDA.

**Answer.** MBDA has been and continues to be involved in the President's empowerment zone initiative. MBDA's recommendations on interim rules for implementing the empowerment zone/enterprise community law were adopted. One key recommendation was that economic opportunity measures be expanded to assure minority business participation.

MBDA has also taken a lead role by assuming some of the implied responsibilities necessary to carry out the law. For example, on April 13, 1994, MBDA will sign an agreement partnering the Nashville MBDC, NationsBank and the Small Business Administration in the inauguration of a demonstration One-Stop Capital Shop (business assistance center) to assist minority businesses. MBDA's management and technical resources will be coordinated with the One-Stop Capital Shops, particularly in the area of identifying capital. The Nashville MBDC has already brought eight local Tennessee banks into a consortium to provide loans to minority businesses.

MBDA believes that this jobs creation partnership agreement, which combines interagency resources, can be used in tandem with empowerment zones and enterprise communities across the nation. Because of MBDA's presence in 97 densely minority-populated areas, the MBDC's are ideally positioned to be within or near the designated empowerment zones and enterprise communities.

MBDA and the Department recognize that there is a critical role to play in developing urban and rural economies. Active consultation on rural determinations between the Secretaries of Agriculture and Commerce is expected and MBDA anticipates an active role.

#### EDA DEFENSE CONVERSION

**Question.** Your budget proposes \$140 million for EDA Defense Conversion Assistance. I want to commend you for that. It is about time that EDA play a leadership role in this effort and not merely tell people to go see the Office of Economic Adjustment in defense.

My hometown, Charleston, is losing over 26,000 direct jobs. And I know firsthand what a devastating impact this is.

Over on the House side, I hear that they are saying that EDA should not be involved in defense conversion. They say this is just a Clinton Administration effort to get money into California to buy votes.

Could you comment on that Mr. Secretary? Could you list some of the locations where EDA is involved? For the record, could you provide a complete list of all the base closures and major contract cutbacks in defense since 1988, when the first Base Closure Commission convened?

**Answer.** Defense conversion is one element of EDA's overall economic development assistance programs (EDAP) to assist economically-distressed communities across the Nation. EDA funds technical assistance, planning, revolving loan funds, business development, and infrastructure enhancement and repair from its defense conversion appropriations consistent with its mission and with Title IX of PWEDA. This program is in no way limited to the State of California as is shown on the state breakout which follows.

#### *EDA defense adjustment assistance—cumulative obligations as of March 31, 1994*

[In thousands of dollars]

<i>State</i>	<i>Obligations</i>
AZ .....	\$587
AR .....	3,126
CA .....	25,950
CO .....	225
CT .....	3,113
IL .....	2,500
IN .....	233
LA .....	2,079
ME .....	1,840

*EDA defense adjustment assistance—cumulative obligations as of March 31, 1994—*  
*Continued*

MD .....	1,184
MA .....	2,825
MO .....	6,700
MS .....	1,500
MT .....	320
NH .....	3,225
NY .....	6,655
ND .....	1,275
PA .....	5,450
RI .....	3,500
SC .....	2,250
SD .....	75
TX .....	4,334
VA .....	3,300
WA .....	387
WV .....	27
Total .....	82,660

A list of major base closures and contract cutbacks in defense for 1988, 1991 and 1993 is listed below:

MAJOR BASE CLOSURES AND REALIGNMENTS

1988 COMMISSION

16 Closures

Chanute AFB, IL	Naval Station Lake Charles, LA
Mather AFB, CA	Presidio of San Francisco, CA
Pease AFB, NH	Fort Sheridan, IL
George AFB, CA	Jefferson Proving Ground, IN
Norton AFB, CA	Lexington Army Depot, KY
Naval Station Brooklyn, NY	Army Material Tech Lab, MA
Phila Naval Hosp., PA	Fort Douglas, UT
Naval Station Galveston, TX	Cameron Station, VA

11 Realignments

Naval Stat. Puget Sound, WA	Umatilla Army Depot, OR
Fort Bliss, TX	Fort Monmouth, NJ
Fort Holabird, MD	Fort McPherson, GA
Pueblo Army Depot, CO	Fort Dix, NJ
Fort Meade, MD	Fort Huachuca, AZ
Fort Devens, MA	

1991 COMMISSION

26 Closures

Fort Ben Harrison, IN	Richards-Gebaur ARS, MO
Naval Station Philadelphia, PA	Tustin MCAS, CA
Grissom AFB, IN	Bergstrom AFB, TX
Fort Devens, MA	Rickenbacker AGB, OH
Philadelphia Naval Shipyard, PA	Chase Field NAS, TX
Loring AFB, ME	Carswell AFB, TX
Fort Ord, CA	Williams AFB, AZ
Naval Station Puget Sound, WA	Moffett NAS, CA
Lowry AFB, CO	Eaker AFB, AR
Sacramento Army Depot, CA	Wurtsmith, AFB, MI
NAV ELEC SYS ENGR CTR, San Diego, CA	Naval Station Long Beach, CA
Myrtle Beach AFB, SC	England AFB, LA
Hunters Point Annex, CA	Castle AFB, CA

19 Realignments

MacDill AFB, FL	Beale AFB, CA
NAVAIR Eng Ctr, Lakehurst, NJ	NAVAIR Dev Ctr, Warminster, PA
NAV Surf Wpns Ctr, White Oak, MD	

NAV Undsea Warfre Eng Station,  
Keyport, WA  
AVSCOM/TROSCOM, MO  
NAVAIR Propul Ctr, Trenton, NJ  
Fort Chaffee, AR  
NAVORD STA, Indian Head, MD  
NAV Wpns Ctr, China Lake, CA  
Fort Polk, LA

NAV Avionics Ctr, Indianapolis, IN  
NAV Wpns Sup Ctr, Crane, IN  
Letterkenny Army Depot, PA  
NAV Coastal Sys Ctr, Panama City, FL  
Pac Mistle Tst Ctr, Point Mugu, CA  
Rock Island Arsenal, IL  
NAVORD STA, Louisville, KY

## 1993 COMMISSION

*30 Closures*

Fort McClellan, AL  
Vint Hill Farms, VA  
Naval Station Mobile, AL  
Mare Island Naval Shipyard, Vallejo, CA  
Marine Corps Air Station, El Toro, CA  
Naval Air Station Alameda, CA  
Naval Aviation Depot Alameda, CA  
Naval Hospital, Oakland, CA  
Naval Station Treasure Island, San Francisco, CA  
Naval Supply Center, Oakland, CA  
Naval Training Center, San Diego, CA  
Naval Air Station, Cecil Field, FL  
Naval Aviation Depot Pensacola, FL  
Naval Training Center, Orlando, FL  
Naval Air Station, Barbers Point, HI  
Naval Air Station, Glenview, IL  
Naval Electronic Systems Engineering Center, St. Inigoes, MD

Naval Air Station Meridian, MS  
Naval Air Station, South Weymouth, MA  
Naval Station Staten Island, NY  
Aviation Supply Office, Philadelphia, PA  
Charleston Naval Shipyard, SC  
Naval Station, Charleston, SC  
Naval Air Station, Dallas, TX  
Naval Aviation Depot, Norfolk, VA  
Homestead Air Force Base, FL  
K.L. Sawyer Air Force Base, MI  
Newark Air Force Base, OH  
O'Hare International Airport Air Force Reserve Station, Chicago, IL  
Defense Electronics Supply Center, Dayton, OH  
Defense Personnel Support Center, Philadelphia, PA

*12 Realignments*

Fort Monmouth, NJ  
Letterkenny Army Depot, PA  
Tooele Army Depot, UT  
Fort Belvoir, VA  
Naval Submarine Base, New London, CT  
Naval Surface Warfare Center, (Dahlgren)

1st Marine Corps District, Garden City, NY  
White Oak Detachment, White Oak, MD  
Naval Training Center, Newport, RI  
Naval Air Station, Memphis, TN  
March Air Force Base, CA  
McGuire Air Force Base, NJ  
Griffiss Air Force Base, NY

Note.—In addition to the major base closures and realignments, there have been an additional 137 smaller base or activity closures, realignments, disestablishments and relocations.

## EDA LOAN GUARANTEES

*Question.* Your EDA budget proposes a new appropriation of \$52 million to reactivate the Economic Development Guaranteed Loan program for businesses. This would subsidize \$269 million in loans.

Now the last time this program was really in operation was in the late 1970's. And EDA was compelled to make loans to a lot of big steel companies that everyone knew were not going to make it. And the taxpayers were left holding the bag in well over \$200 million in defaults.

If we provide you with this tool—and appropriate the \$52 million—what assurance do we have that it would not be used in the same manner? How are you going to keep from giving loans to poor risks? Are there any size limits on the industries that would receive these loan guarantees?

Answer. EDA will take a number of steps that will make the proposed program cost-effective and successful.

—It will target guarantees to firms whose expansion, adjustment, or ongoing operations are an integral part of a targeted economic development strategy.

—It will guarantee a lower percentage of loans than in the past. This will increase the amount of a lender's financial exposure and potential loss, and will serve as an incentive to lenders to finance better credit risks.

—It will target the program to firms whose financial condition makes them credit worthy, but whose location, market, or the term/length of the loan needed makes the risk too great for private lending institutions. The risk involved will no longer be just the financial condition of the borrower, but also the adjust-

ment, expansion, or location of the firm. In other words, it will be an economic development, not a credit risk.

- The credit standards and implementation strategy for the proposed guarantee program will be consistent with the tighter credit extension and credit management standards developed by OMB and Treasury in conjunction with the Federal Credit Policy Working Group over the past decade.
- EDA will target loan guarantees to firms that need no more than \$10 million in EDA-backed financing. The average size is estimated to be about \$2 million.

#### YEAR 2000 CENSUS

**Question.** The major feature of our fiscal year 1995 budget is our request for the year 2000 census. In 1995, our activities will move from research and development of various promising design alternatives to conducting full scale census tests. Our goal is to determine by December 1995, the features we will use for the 2000 census. At this time, all of the following answers concerning cost and workyears are based on the 1990 design, adjusted for increased housing units and a decreased response rate. When the final design is selected, we will have better cost and workyear information.

How many billion dollars do you estimate it will cost to carry out the year 2000 decennial census?

**Answer.** The design for the year 2000 census and the cost associated with that design will be determined, based in large measure on the 1995 test. It is critical that we have a complete test in 1995. If we were to repeat the 1990 census design adjusted for an increase in the number of housing units and a decrease in the mail response rate, the costs of the 2000 census could reach \$4.8 billion. Our goal is to redesign and conduct the census at a cost lower than \$4.8 billion. The funds supporting the 1995 test are essential to achieve this goal.

**Question.** What are the "ballpark" annual appropriation amounts that will be needed by fiscal year 1999?

**Answer.** The following is based on a 2000 census comparable to that conducted in 1990. This estimate assumes an increase in the number of housing units of 10 percent; a decrease in the mail response rate to 55 percent; and the application of inflation factors to all other components.

		<i>In millions</i>
<b>Fiscal year:</b>		
1994 .....		\$25
1995 .....		60
1996 .....		70
1997 .....		120
1998 .....		400
1999 .....		735

These factors will be revised in light of results of the 1995 test.

**Question.** Does the administration's outyear budget take these increases into account?

**Answer.** The administration's outyear amounts include ceilings for the 2000 decennial census as follows:

<b>Fiscal year:</b>		
1996 .....		\$53,552
1997 .....		45,990
1998 .....		182,465
1999 .....		1,180,944

We expect these estimates will change after we assess the results of the 1995 test.

**Question.** How many more people—full-time equivalent positions—will be needed to run the census?

**Answer.** The following is based on a comparable census (that is, a 2000 census identical to the 1990 census). This estimate includes an increase to the number of housing units by 10 percent and a decrease in the mail response rate to 55 percent.

<b>Fiscal year:</b>		
1996 .....		1,258
1997 .....		1,554
1998 .....		4,738
1999 .....		9,546

These figures will be revised after we assess the results of the 1995 test.

**Question.** Did the administration take this into account when it came up with the proposal to cut 252,000 positions from the Federal Government? Aren't you going to have to lay-off the rest of the Department of Commerce just to come up with the FTE positions for the Census? What do you intend to do about this problem?

**Answer.** The Administration's proposal to cut 252,000 positions is targeted at reducing the number of administrative and overhead positions and making programs more efficient, not at making it impossible to conduct the Decennial Census. Since the Decennial Census is a major cyclical program, we anticipate that the Department will be given a temporary allowance of additional FTE to hire more employees to do the census. The Department will not have to lay off the rest of Commerce to do the census.

**Question.** How much could we save by sampling after the initial return of census questionnaires?

**Answer.** The Census Bureau has made estimates of savings if we use sampling for the nonresponse follow-up operation in the 2000 census. We have taken into consideration several possible scenarios, and the savings estimates range from \$300 to \$650 million. The lower estimate assumes a 50 percent sample for nonresponse follow-up for a census design otherwise similar to 1990. The higher estimate assumes a 1-in-4 sample of nonrespondents in the census.

**Question.** How much of your fiscal year 1995 budget relates to developing these sampling models? You know last time we paid to develop these models, the Bush Administration decided not to use the results.

**Answer.** For fiscal year 1995, the Census Bureau is requesting about \$868,000 to continue research activities devoted to the exploration of increased uses of sampling and estimation to replace/supplement direct enumeration during the census. Increased use of sampling has great potential to reduce costs and the differential undercount. Three sampling methodologies are being designed. They are:

**Sampling of Nonrespondents to Reduce Costs.**—Sampling would take place at the conclusion of our initial attempt to obtain completed census questionnaires—mainly via mail. We would sample the addresses for which we do not have responses rather than following up all households. Sampling for nonresponse follow-up has many advantages: (1) it decreases the workload for the most costly component of the 1990 census, nonresponse follow-up; (2) it requires fewer enumerators and/or less time, which will result in higher caliber employee and better data quality; and (3) it allows more time and resources for employing integrated coverage measurement methods discussed below.

The Census Bureau has developed a proposal for testing sampling for nonresponse follow-up in the 1995 Census Test. This test will implement both a housing unit sample and a block sample in each site to produce estimates of nonrespondents. The sampling rate in each site will be about 30 percent of the total nonresponse universe.

**Sampling and Integrated Coverage Measurement to Reduce Differential Undercounts.**—The Census Bureau is committed to using an integrated coverage measurement methodology to produce a census that reduces this differential undercount. To this end, the Census Bureau is investigating a new way of taking the Decennial Census of Population and Housing that will yield a "one-number" census.

We will use statistical techniques, administrative records, and the like to estimate the number and types of persons missed in the census while the census is being conducted. We will use statistical estimates to account for the missed persons, so that the combined (integrated) results will be available by the legally mandated deadlines. We will test this methodology in the 1995 Census Test.

**Content Sampling.**—In addition to research on sampling to replace/supplement direct enumeration, we are also proposing to spend \$340,000 for testing on content sampling. This procedure involves the use of matrix sampling which offers the opportunity to reduce the number of questions on each sample form, thereby reducing overall respondent burden. It does not involve the use of sampling models to reduce the number of households visited during the census. The \$340,000 also includes funding for content determination with non-Federal data users.

#### PROMOTING EXPORTS OVERSEAS

**Question.** It's been a year since the Clinton Administration decided to get the State Department more involved in promoting exports. Our 1994 subcommittee report supported this policy but warned against recreating a Foreign Commercial Service within the Department of State.

What's your opinion of how this policy change is working at the embassy level?

**Answer.** The increased focus of the Ambassador on commercial promotion greatly enhances our ability to promote U.S. exports overseas. This Ambassadorial leader-

ship provides enthusiasm for the entire Embassy team to focus on commercial activities. To support the Ambassador, the central commercial player, US&FCS, must be the lead in coordinating Embassy resources around commercial goals, as is the case in most Embassies worldwide. As recommended in the Trade Promotion Coordinating Committee's National Export Strategy, each Embassy has created a Strategic Commercial Plan to set forth the Embassy-wide mission for achieving commercial objectives. Working closely with Embassy colleagues, US&FCS officers coordinated the country commercial team around the development of this plan. This collaborative inter-agency process will be furthered with the development of the Country Commercial Guide, a streamlined compilation of commercial information to be generated by each Embassy.

We enthusiastically welcome the upgraded commercial focus overseas in posts without US&FCS presence. We are working closely with the State Department's Coordinator of Business Affairs to explore how we can best coordinate our overseas commercial resources.

*Question.* In Argentina, it was pretty clear to me that Ambassador Jim Cheek is our best commercial officer—he is constantly out getting business for American firms. But, I've heard that at other posts your Foreign Commercial Service officers are denied direct access to the Ambassador and are required to report to and through the embassy economic officer.

Is that correct? At how many locations is this the case? Can it be corrected?

*Answer.* At virtually all posts where the US&FCS is present the Senior Commercial Officer (SCO) reports directly to the Ambassador. However, there are still a few embassies where the State Department does not allow the SCO to report directly to the Ambassador, specifically, in London, Paris and Rome.

Apparently the rationale given by the State Department for having the SCO (who is of Minister Counselor rank in each of these countries) report to the Economic Minister is to reduce the number of people reporting directly to the Ambassador at these large posts. However, the SCO in Tokyo—one of the largest embassies in the world—reports directly to the Ambassador, so it is unclear why this rationale applies in some embassies but not in others.

Nevertheless, the Memorandum of Understanding between the Departments of State and Commerce regarding the Administration of the Foreign Commercial Service, dated September 26, 1979 explicitly states: "The senior Foreign Commercial Officer in each country will report directly to the Chief of Mission/DCM and at diplomatic missions will be a member of the Country Team."

US&FCS' efforts to change this aberration in these posts have been unsuccessful to date. We will continue to press the State Department to resolve the matter.

*Question.* Dick Moose, Under Secretary of State for Management, told me that he thinks there is too much duplication and redundancy between reporting that is required by Commerce of the commercial officers and by State of the economic officers. He thinks that a lot of workload and effort could be saved—and duplication avoided—by consolidating much of this information, or making only one group responsible for economic reporting. What is your opinion? Could we cut some of the paperwork and free our personnel to do the work rather than report on it?

*Answer.* An important recommendation of the TPCC is to streamline and consolidate various commercial and economic reports generated by the embassies into a single "Country Commercial Guide". We have just sent out an inter-agency cable to our posts overseas with instructions for preparing the Country Commercial Guide (CCG). The CCG will achieve much of the objective that you have identified.

This single commercial guide will be prepared by the embassy commercial team (predominately Commerce, Agriculture and State) and will be made widely available to the U.S. business community by September 1994.

In the interest of further streamlining, a number of additional Congressionally-mandated economic/commercial reports, including the 1988 Trade Act Report and National Trade Estimates Report, could also effectively be incorporated into the CCG, with permission from Congress.

With different areas of responsibility and expertise, the economic and commercial sections each provide an important perspective on commercially relevant information which could not be reasonably consolidated into one single embassy section. The economic section reports on areas of macroeconomic developments, and the commercial section covers more focused, day-to-day issues affecting business, conducting sectoral market research, and seeking out specific business opportunities. Both types of reporting are conducted on an ongoing basis. This frequent reporting, in addition to the annual CCG, provides the critical information needed by the U.S. private sector to engage in trade and investment decisions. This range of overseas market information is one that our embassies in the field are uniquely positioned to access and report.

## ITA—U.S. EXPORT ASSISTANCE CENTERS

*Question.* How many of these centers are you proposing in fiscal year 1995?

*Answer.* Four pilot U.S. Export Assistance Centers (USEAC's) began operations in January 1994. The Trade Promotion Coordinating Committee's (TPCCC) report, "Towards a National Export Strategy", recommends the identification of ten additional USEAC sites by June, 1994, to become operational by calendar year 1995. Thus, including the four pilot sites, fourteen USEAC's could be operational by the end of calendar year 1995.

*Question.* Will all domestic International Trade Administration offices be converted over to these U.S. Export Assistance Centers?

*Answer.* All domestic International Trade Administration field offices will be a part of the USEAC network. There are not sufficient trade finance resources in the field to convert all domestic offices to full-service USEAC's (those with on-site trade finance and export marketing specialists), but every office will be tied into the USEAC network.

*Question.* On what basis did you pick Baltimore, Miami, Long Beach and Chicago?

*Answer.* The TPCC selected these four pilot sites based on the objectives of export potential; geographic diversity; opportunities to operate various models; the availability of U.S. and Foreign Commercial Service, Export-Import Bank and U.S. Small Business Administration resources; and the availability of public and private trade development partners.

*Question.* What is the cost of this transition?

*Answer.* Commerce's share of the incremental conversion and start-up costs for each new USEAC created in fiscal year 1994 is approximately \$250,000 including training, but not including the cost of any personnel moves which may be required. Fiscal year 1994 costs were fully absorbed in the US&FCS budget. The TPCC report recommends that ten new USEAC's be established in 1995.

*Question.* Won't these centers reverse much of the progress made under the previous administration's Strategic Review for the U.S. and Foreign Commercial Service (which got US&FCS to focus on serious exporters and not deal with the general walk-in traffic)?

*Answer.* These centers will augment the progress made under the previous administration's Strategic Review. The US&FCS' focus on export-ready companies will be maintained. Also, annual work plans for the USEAC's (USEAC Strategic Plans) follow closely the guidance developed in association with the US&FCS Strategic Review. SBA will provide guidance to non-export ready businesses and will assist those export-ready firms that can benefit from SBA's trade finance programs. Through partnership networks established by each USEAC, non-export ready businesses are guided to appropriate sources of assistance outside the USEAC, thereby continuing the focus on established, capable and committed new-to-market export businesses. Thus, the USEAC's provide, either directly or through partners, the appropriate level of service required by firms along the exporting continuum.

*Question.* Who in these centers is going to decide which client sees the US&FCS vs. SBA vs. Export Import Bank personnel?

*Answer.* US&FCS, EXIM and SBA have developed a protocol at each of the four pilot USEAC's to assess the export-readiness of new clients and direct them to the appropriate sources of assistance, either within or outside the USEAC. Export-ready clients that require both export marketing and trade finance assistance receive team counseling from USEAC participants. Non-export ready businesses are guided by SBA to appropriate sources of help among the local network of export assistance partners. Thus, the USEAC's are able to provide, either directly or through partners, the appropriate level of service required by a firm at each stage of the export process.

*Question.* Will SBA and EXIM Bank personnel be given authority to task overseas US&FCS offices?

*Answer.* The integration of the operations of US&FCS, Eximbank and SBA provides access to US&FCS offices overseas. Any tasking of US&FCS posts overseas can be done through the local US&FCS team member who is familiar with US&FCS operations, priorities and tasking protocol. Overseas FCS posts have long been responsible for representing EXIM, TDA and OPIC.

## OVERSEAS TRADE MISSIONS

*Question.* It seems like since this Trade Policy Coordinating Committee "TPCC" Report, we have a proliferation of Federal Agencies getting into the Export Promotion Business and sponsoring overseas Trade Missions. How many Trade Missions is Commerce (by Bureau) planning to conduct in fiscal year 1994? What is the cost?

Answer. The TPCC has created a Trade Events Board, chaired by a US&FCS representative, to provide Federal-wide coordination for all trade missions. All agencies that participate in the TPCC are aware of their responsibility to coordinate their missions through this Board.

Commerce is conducting 47 missions in fiscal year 1994, and might add missions if conditions warrant additional activity. All of these are being conducted by ITA. The directly related costs, which are borne by participant contributions or fees to sponsoring entities, are projected at \$953,000 for the 47 missions. Additional cost would be entailed if other missions come to fruition.

Question. Federal-wide how many trade missions are planned by Agency? What is the cost? Who or what agency is responsible for coordinating these trade missions? For example, SBA is leading a mission to Argentina soon—who approved that mission and determined that it would not conflict with the MBDA Trade Mission or other Agencies missions?

Answer. We know of 67 trade missions planned by government agencies this year, if the full complement of Commerce missions (47) is carried out. Seven of the 47 Commerce missions are explicitly identified as supporting other Federal agencies (the seven will cost \$28,000). The 20 missions which Commerce will not coordinate are being conducted by OPIC, the Department of Agriculture, the SBA, the Department of Energy, and the Department of Transportation. We have recently established a TPCC Trade Events Board, which should improve coordination. The Trade Events Board's charter is to serve as a coordination point to ensure a Federal government trade event schedule which will eliminate duplication and overlap of events and missions.

SBA did not coordinate plans for the Argentina mission through Commerce, but we are working with them to ensure their events in the future are coordinated inter-agency.

MBDA plans to conduct a total of three (3) Matchmaker trade delegations in fiscal year 1994 at a cost of approximately \$1,000 to \$1,500 per company to affect administrative costs. This includes such costs as pre- and post-trip follow-up and translation services.

MBDA is the only federal agency with the sole mission of assisting minority owned firms. Therefore its Matchmaker trade delegations area specifically designed to assist minority business enterprises at the "new-to-export" market level. SBA is charged with assisting small and minority businesses with more emphasis on small than minority; ITA primarily deals with "export ready" firms which may be large or small businesses. As a result, MBDA plans for trade delegations do not conflict with SBA and ITA. MBDA participates in minority Matchmaker delegations which are tailored to the needs of the participants.

MBDA's Matchmakers are implemented in conjunction with ITA who has the responsibility for coordination with other federal agencies.

#### US&FCS BUDGET AND PERSONNEL LEVELS

Question. Personnel (for U.S. citizen and FSN employees) by country and region, and budgets by country and region. Please break out FSN payroll separately.

Answer. The following table reflects the personnel (US&FSN employees), and budgets by country and region:

FISCAL YEAR 1994 US&FCS OVERSEAS STAFFING

Region	FSN/PIT budget	Post total	Americans		FSN/PIT	
			On board	In process	On board	In process
ANESA .....	2,305	4,622	23	4	91	9
EAP .....	7,757	11,846	49	7	157	20
EUR .....	10,811	15,720	61	.....	209	10
WH .....	4,421	6,983	34	4	126	8
NIS .....	223	1,630	13	.....	30	5
MDB .....	243	617	4	.....	6	1
<b>Total .....</b>	<b>25,561</b>	<b>41,418</b>	<b>184</b>	<b>15</b>	<b>619</b>	<b>53</b>
<b>ANESA:</b>						
Algeria .....	24	86	.....	.....	2	.....
Egypt .....	196	320	2	.....	9	.....

## FISCAL YEAR 1994 US&amp;FCS OVERSEAS STAFFING—Continued

Region	FSN/PIT budget	Post total	Americans		FSN/PIT	
			On board	In process	On board	In process
India .....	156	478	5	1	19	2
Israel .....	234	340	1	.....	5	1
Kenya .....	27	79	.....	1	3	.....
Kuwait .....	208	342	2	.....	4	1
Morocco .....	94	174	1	.....	4	.....
Nigeria .....	63	358	2	.....	5	2
Pakistan .....	64	169	1	.....	7	.....
Saudi Arabia .....	751	1,200	5	1	20	.....
South Africa .....	239	564	2	1	6	3
UAE .....	249	559	2	.....	7	.....
Total ANESA .....	2,305	4,669	23	4	91	9
EAP:						
Australia .....	492	710	3	.....	14	1
China .....	308	1,089	11	1	24	7
Hong Kong .....	480	1,453	3	1	12	3
Indonesia .....	206	509	4	.....	13	.....
Japan .....	4,563	5,263	12	3	38	6
Korea .....	623	768	7	.....	18	.....
Malaysia .....	135	278	2	.....	8	.....
New Zealand .....	144	217	.....	1	5	.....
Philippines .....	99	377	2	.....	8	.....
Singapore .....	291	586	3	.....	9	.....
Thailand .....	215	596	2	1	8	3
Total EAP .....	7,557	11,846	49	7	157	20
Europe:						
Austria .....	515	622	1	.....	7	.....
Belgium .....	553	694	2	.....	8	.....
Belgium-USEC .....	185	365	3	.....	3	.....
Bulgaria .....	30	115	1	.....	3	.....
Croatia .....	23	29	.....	.....	1	.....
Czech Rep .....	46	183	2	.....	5	.....
Denmark .....	318	438	1	.....	5	.....
Finland .....	150	241	1	.....	3	.....
France .....	1,342	1,929	6	.....	22	.....
France-USOEC .....	.....	94	1	.....	1	.....
Germany .....	2,368	3,039	12	.....	33	5
Greece .....	196	252	1	.....	7	1
Hungary .....	105	183	1	.....	6	.....
Ireland .....	120	191	1	.....	4	.....
Italy .....	1,082	1,534	6	.....	19	2
Netherlands .....	513	704	3	.....	9	1
Norway .....	141	255	1	.....	3	.....
Poland .....	138	492	3	.....	7	.....
Portugal .....	224	341	1	.....	6	.....
Romania .....	58	118	1	.....	3	.....
Serbia .....	19	21	.....	.....	1	.....
Spain .....	789	1,076	4	.....	13	.....
Sweden .....	245	347	1	.....	7	.....
Switzerland .....	445	541	1	.....	6	.....
Turkey .....	394	626	3	.....	10	.....
UK .....	812	1,290	4	.....	17	1

## FISCAL YEAR 1994 US&amp;FCS OVERSEAS STAFFING—Continued

Region	FSN/PIT budget	Post total	Americans		FSN/PIT	
			On board	In process	On board	In process
Total EUR .....	10,811	15,720	61	.....	209	10
WH:						
Argentina .....	387	619	2	.....	8	.....
Brazil .....	668	1,325	5	1	18	1
Canada .....	815	1,003	6	.....	19	.....
Chile .....	319	502	2	.....	9	.....
Colombia .....	280	415	2	.....	10	.....
Costa Rica .....	78	137	1	.....	3	.....
Dom. Rep .....	57	135	1	.....	3	.....
Ecuador .....	108	155	1	.....	6	.....
Guatemala .....	112	133	.....	1	4	.....
Honduras .....	77	100	.....	.....	4	.....
Jamaica .....	.....	2	.....	.....	.....	.....
Mexico .....	1,019	1,554	10	1	29	3
Panama .....	126	215	1	.....	4	.....
Peru .....	75	223	.....	1	2	.....
Venezuela .....	300	465	3	.....	7	4
Total WH .....	4,421	6,983	34	4	126	8
NIS:						
Armenia .....	.....	1	.....	.....	.....	.....
Azerbaijan .....	.....	1	.....	.....	.....	.....
Byelarus .....	.....	9	.....	.....	.....	.....
Kazakhstan .....	30	101	1	.....	4	.....
Russia .....	151	1,110	9	.....	21	.....
Ukraine .....	32	323	2	.....	4	2
Uzbekistan .....	10	85	1	.....	1	3
Total NIS .....	223	1,630	13	.....	30	5
Multi-lateral development banks:						
Ivory Coast .....	168	361	2	.....	4	.....
Philippines-ADB .....	12	114	1	.....	1	.....
UK-EBRD .....	63	142	1	.....	1	1
Total MBD .....	243	617	4	.....	6	1

**Question.** What is the pay raise rate proposed in the budget for Foreign Service National employees?

**Answer.** Wage changes are a component of the fiscal year 1995 overseas wages adjustment to base (ATB) and vary country to country. The net fiscal year 1995 ATB request for overseas wages for US&FCS is \$1,050,000. To determine this ATB, our model uses data for changes in wages, and also for inflation and currency gains/losses. The results are computed on a country by country basis. The net total of all these components equals 4 percent of FSN compensation and benefits projected for fiscal year 1994.

## USTTA BUDGET AND PERSONNEL LEVELS

**Question.** Please provide a table indicating the following data on the United States and Foreign Commercial Service for fiscal year 1994.

Personnel (for U.S. Citizen and FSN employees) by country and region, and budgets by country and region. Please break out FSN payroll separately.

What is the pay raise rate proposed in the budget for Foreign Service National Employees?

Answer. The following table reflects the personnel (US&FSN employees), and budgets by country and region:

Country	U.S. salary and benefits	FSN salary and benefits	Budget/country	Percent	U.S. FTE	FSN FTE
Canada .....	\$281,000	\$219,000	\$1,353,000	1.7	3	4
Mexico .....	239,100	204,500	1,005,500	9.9	3	4
United Kingdom .....	239,000	225,000	1,259,500	4.5	3	4
France .....	186,000	278,000	966,500	2.7	2	6
Germany .....	202,000	284,000	1,581,500	2.9	2	5
Japan .....	285,000	333,000	1,501,500	2.3	2	4
Australia .....	102,000	81,000	624,500	4.3	1	1
Italy .....	107,000	175,000	521,500	4.3	1	1
Netherlands .....	139,000	85,000	470,500	2.4	1	1
Miami (S. Amer.) .....	141,000		382,000	3.8	2	

**Question.** In last year's bill, this Subcommittee added \$3.0 million to ITA's Import Administration (IA) to hire additional accountants, CPA's and MBA's. As you may recall, both your Inspector General and private industry have criticized the lack of accountants to conduct investigations of unfair trade practices. I personally argued for this increase in Conference which the House proposed.

As I look at your budget justification, I can find no evidence of additional personnel being hired by the Import Administration in fiscal year 1994 as a result of our efforts and the \$3.0 million increase. Your budget indicates that in fiscal year 1993, IA had 337 positions. And for fiscal year 1994, 348 positions. And for fiscal year 1995, your budget shows a reduction down to 340 positions.

What's going on? When we give you money to hire additional accountants, MBA's and CPA's—that's what it is for—and nothing else.

**Answer.** The fiscal year 1994 appropriations conference report provided IA "with an increase of \$3,000,000 to hire additional accountants and financial analysts." The Report did not specify an increase in FTE, but clearly called for the hiring of "additional" staff.

The omission of a reference to increased FTE in the Report language has forced management into a difficult position since the addition of new FTE, absent authorization in the Appropriations language, is inconsistent with the President's directive to reduce FTE.

In view of this predicament, IA management has adopted an aggressive hiring plan to hire 24 Antidumping (AD)/Countervailing Duty (CVD) Financial Analysts within IA's existing FTE ceiling. Since no new FTE are available to IA, management will look toward FTE capacity generated by its historically-high turnover rate to support these new positions. This is not an ideal arrangement. Ideally, additional FTE should be provided to hire new employees with the budget increase.

Albeit new hiring without additional FTE is an undesirable path to follow, this is IA's only alternative to ensure our responsiveness to Congressional intent to hire additional accountants and financial analysts.

These analysts will have specialized knowledge of the theories and principles of finance and accounting which govern and apply to business operations and transactions, sufficient to plan and conduct comprehensive analyses of corporate financial structures, accounting practices and systems, and cost/price information.

Further enhanced analytical staff power will increase the depth and quality of AD/CVD verification activities and be critical to addressing the increasing complexity of casework caused by a variety of factors, including the continuing emergence of multinational corporations, hyperinflationary and non-market economies.

Management is committed to effective enforcement of the AD/CVD laws, and the recruitment of these positions is essential to ensuring a necessary diversity of critical analytical skills in our staff.

The reduction of positions for fiscal year 1995 resulted from the President's Executive Order on FTE reduction.

Following is a breakdown of the use of the \$3 million increase:

(In thousands of dollars)

Directly related to hiring new financial analysts:	
Personnel Compensation and Benefits for 24 new hires .....	968
Travel for on-site verification (international) .....	136
Utilities .....	2

Printing .....	63
Other Services (largely training and mainframe computer support) .....	255
Supplies .....	17
Equipment .....	72
ITA administration and executive overhead .....	180
Payments to the Department for office space and Office of General Counsel support .....	399
<b>Total .....</b>	<b>2,092</b>
<b>Support for investigations and reducing backlog:</b>	
Travel—on-site verification .....	171
Transportation of things (shipments, relocation costs, etc.) .....	87
Printing .....	100
Training and computer support .....	100
Supplies .....	100
Equipment .....	350
<b>Total .....</b>	<b>908</b>
<b>Grand total .....</b>	<b>3,000</b>

## NTIA INFORMATION INFRASTRUCTURE GRANTS

*Question.* In fiscal year 1994 you requested \$51 million and we provided \$26 million for a totally new Information Infrastructure Grant program. The only thing I recall was stating that this program needed to be fully competitive and then watching an avalanche of earmark report language from the House and Senate members. The folks back home obviously see this as a grant opportunity for "sooey pig"—let's get some pork.

The first round of grants has not yet been selected, yet in fiscal year 1995 you are proposing \$100 million, an increase of \$74 million or 280 percent for this program.

Why such a large increase for an unproven, demonstration program?

How are we going to keep this from simply becoming a pork barrel?

You've also proposed cutting the Public Telecommunications Facilities Program, from \$24 million to \$10.7 million. Reading your budget justification, it appears that you've decided that Ronald Reagan and George Bush were right. Could you give me your rationale.

*Answer.* The proposed increase in the NII grants program is consistent with the Administration's position for bringing a modern telecommunications and information infrastructure to all Americans by the 21st century. The requested amount of money that will be used for grants will demonstrate to the public and private sectors alike, our commitment to bringing this vision to reality. At this time, there is great opportunity for the Government to leverage its investment and stimulate further private sector investment in building the NII. This will result not only in keeping the Nation and its telecommunications and information service providers and manufacturers competitive in the expanding market for telecommunication goods and services, but provides a great opportunity to enhance the delivery of key social services, such as education and health-care to all our citizens.

The Administration intends that the NII grants program remain a highly competitive program, awarding grants based on merit and adherence to the principles we have articulated to ensure that all Americans will have access to the benefits of the NII. Working with the Congress, we can ensure that this remains the case.

In fiscal year 1995, the Public Telecommunications Facilities, Planning and Construction (PTFP) will be changed to the Public Broadcasting Facilities, Planning and Construction (PBFP). The proposed reduction in the funding for the PBFP in fiscal year 1995 is largely the result of our decision to incorporate grants for distance learning projects, which up until this year, have been included as part of the PTFP, into the NII grants program beginning in fiscal year 1995. This decision will help to assure that distance learning projects continue to receive the special attention required if we are going to bring increased educational opportunities to all Americans as part of our NII vision.

In fiscal year 1993, one-third of the funds awarded as grants in the PTFP supported distance learning projects. If we use this figure as a guide, then we would expect PTFP to fund about \$8 million in distance learning projects this year—fiscal year 1994. Next year, in fiscal year 1995, these projects will be funded as part of the NII grants program. Therefore, the proposed decrease to PBFP in fiscal year 1995 is in actuality much smaller than may first appear.

The Administration is committed to a sound and viable public broadcasting infrastructure. Public television signals cover over 95 percent of the U.S. population, and public radio signals can reach nearly 90 percent of our people. With the support of the Congress through the years, the PTFP has been extremely successful in meeting the objectives initially set forth for the program—namely to extend the coverage of public telecommunications services in an efficient and economical fashion to as many citizens as possible. We remain committed to this goal and to the goal of increasing public telecommunications services and facilities available to, operated by, and owned by, women, minorities, and other socially and economically disadvantaged Americans.

#### UNALLOCATED BUDGET AMENDMENTS

*Question.* Leon Panetta likes to put general cuts in the back of the budget so no one sees them. Last year he put a cut for the Judiciary under "negative allowances." This year we get "Procurement Reform." On Thursday the President transmitted a series of budget amendments reducing this request for this bill by \$46.2 million. For the Department of Commerce this cuts your request by \$12.4 million.

However, the \$12.4 million is not allocated by bureau or appropriation account.

How is the Department going to save funds by procurement reform—what does this mean exactly? Why aren't you doing it now in 1994?

*Answer.* At this time, any significant procurement savings to be realized by the Department can be realized only by reducing requirements; i.e., the program dollars spent through the procurement process. It is anticipated that procurement reforms, such as full implementation of electronic commerce, limiting reviews and approvals to those that add value, and eliminating unnecessary regulations, will allow us to reduce and reallocate resources over the next few years.

We did reduce procurement resources in the fiscal year 1994 budget. The Department took a 3 percent reduction for administrative expenses in 1994 which already reduced the Department's procurement resources.

*Question.* How do you want or expect us to allocate this \$12.4 million reduction?

*Answer.* No. The Department plans to distribute this reduction by bureau/account. This will be provided to the Subcommittee.

*Question.* Do you expect this to be just another general reduction from NOAA?

*Answer.* No. The Department plans to distribute this reduction proportionately to its bureaus. Since NOAA is the largest bureau within Commerce and the largest procurer of equipment and services, it, therefore, takes the largest reduction.

#### EXPORTER SALES PRICE OFFSET AND PROFIT DEDUCTION

*Question.* We must reverse course on ESP and profits because, in cases involving dumping by a foreign country through their subsidiaries, the DOC regulations automatically put the U.S. company at a 15 to 20 percent disadvantage. Furthermore, we need a change of policy in this area to hold the fort against the weakening of the dumping laws which will be caused by the new sunset and de minimis rules under the Uruguay Round. Therefore, it is imperative that you place both the export sales price offset amendment and the profits amendment in your list of "necessary"—not merely "appropriate"—provisions of the Uruguay implementing legislation.

Do you plan to rectify this situation in the implementing language of the Uruguay Round?

*Answer.* No decision has yet been made about whether and how to deal with this issue in Uruguay Round implementing legislation. The issue is an extremely complex one. Should the implementing legislation make changes of the nature suggested, a number of existing statutory provisions would have to be modified to ensure that, in making ESP calculations, real dumping margins are not disguised and artificial margins not created, and to ensure consistency with our GATT obligations.

#### FOREIGN TRADE ZONES

*Question.* Why are we increasing the number of trade zones?

If you are serious about cutting the trade deficit, shouldn't you scale back the number of trade zones rather than increase them?

*Answer.* The number of new zones and subzones has been relatively constant in recent years, though we foresee a reduction in new projects in the years ahead. Of the 51 Orders issued by the Foreign-Trade Zones Board during 1993 (compared to a total of 64 Orders in 1992), 7 involved new general-purpose zones (8 in 1992) and 19 involved subzones (29 in 1992). The other 23 actions in 1993 involved changes to existing zones.

We believe that the decisions of the Board in these cases reflect a policy that addresses your concerns and those of the industries that oppose the use of zone procedures for import manufacturing activity, most of which takes place in subzones. We limited full zone benefits to export activity in 11 of the 19 subzone cases approved in 1993. We also included similar restrictions in decisions we made on proposals for new manufacturing authority within 2 existing general-purpose zones.

The Board will continue restricting authority for import manufacturing activity that involves products such as textiles, steel, and agricultural products subject to quotas. While it has always followed a practice of limiting or denying zone benefits when there are trade policy issues or negative economic consequences, the process has become more exacting under the 1991 comprehensive revisions to the Board's regulations.

In cases where authority is requested for import manufacturing, the analysis of policy and economic factors includes consideration of trade deficit implications. We take into account the purpose zones serve in helping state/local port and economic development agencies achieve their objectives. In regard to foreign investment projects, we consider the economic benefits that flow from domestic operations that might displace imports of finished products. Foreign-sourcing levels remain subject to monitoring to ensure that zone procedures do not create an increase in imports or delay shifts to domestic sourcing.

As we continue to review the applications filed with the Board on their individual merits, we are evaluating our practices as well as the future course of the FTZ program. We will remain mindful of your comments as we do so.

#### QUESTIONS SUBMITTED BY SENATOR ROBERT C. BYRD

##### STATUS OF WEST VIRGINIA NTIA GRANTS

*Question.* Secretary Brown, in response to one of my questions from last year's hearing, you provided the Committee the following list of three fiscal year 1993 applications from West Virginia that are in the initial stages of review by the Public Telecommunications Facilities Construction Grant Program.

West Virginia Library Commission (93018), Charleston, West Virginia, requests \$2,860 to improve the operations of the West Virginia Radio Reading Service by replacing cassette machines with broadcast quality recorders and playback machines. The radio reading service reaches approximately 4,500 handicapped residents of West Virginia.

West Virginia Educational Broadcasting Authority (93046), Charleston, West Virginia, requests \$45,011 to improve the operations of WSWP-TV in Grandview, West Virginia, by replacing a badly worn and inadequate master control switcher and to acquire a new color field camera.

Pocahontas Communications Cooperative Corp. (93280), Dunmore, West Virginia, requests \$154,448 to extend and improve the service of public radio station WVMR-AM by constructing two repeater transmitters to serve residents of Bath and Highland Counties. WVWR-AM will provide twelve hours per day of programming via a studio-to-transmitter link to two FM transmitters; local origination studios at the transmitter sites will add an additional six hours per day of local programming. The transmitters will provide a first public radio service to 7,500 persons.

Secretary Brown, please provide for the record an updated status report on the three applications from West Virginia and any other prospective grants in West Virginia. Include in this information the current stage of each prospective West Virginia project and the expected award date of each project. What are the Administration's plans for this program?

*Answer.* The following fiscal year 1993 PTFP applications were awarded by NTIA: West Virginia Educational Broadcasting Authority (93046), Charleston, West Virginia. Awarded \$45,011 to replace a badly worn and inadequate master control switcher and to acquire a new color field camera for WSWP-TV in Grandview. Pocahontas Communications Cooperative Corp. (93280), Dunmore, West Virginia. Awarded \$139,003 to extend and improve the service of public radio station WVMR-AM by constructing two repeater transmitters to serve residents of Bath and Highland Counties.

The following fiscal year 1993 PTFP application was deferred for future consideration: West Virginia Library Commission (93018), Charleston, West Virginia. Requested \$2,860 to improve the operations of the West Virginia Radio Reading Service by replacing cassette machines with broadcast quality recorders and playback machines.

The following fiscal year 1994 applications were received by NTIA:

West Virginia Educational Broadcasting Authority (94008), Charleston, West Virginia. Requested \$116,080 to replace and upgrade production equipment at WPBY-TV in Huntington.

West Virginia Educational Broadcasting Authority (94028), Charleston, West Virginia. Requested \$523,611 to extend the service of West Virginia Public Radio by establishing transmission facilities in Petersburg and White Sulphur Springs and to establish satellite reception facilities at the existing public radio stations that comprise the state network.

WCZR Radio (94232), Charleston, West Virginia. Requested \$949,071 to improve and replace the existing facilities of the non-commercial radio station and to expand the coverage of the station.

West Virginia Educational Broadcasting Authority (94309), Morgantown, West Virginia. Requested \$149,500 to replace studio production equipment at WNPB-TV in Morgantown.

These applications are currently under review. It is anticipated that we will announce the recipients of the 1994 PTFP grants in mid-September of this year.

*Question.* What are the Administration's plans for this program?

*Answer.* In fiscal year 1995, the Public Telecommunications Facilities, Planning and Construction (PTFP) will be changed to the Public Broadcasting Facilities, Planning and Construction (PBFP). This Administration is the first one in 12 years to request any funding for the PBFP. The fiscal year 1995 request for PBFP is \$10.7 million, a decrease of \$13.3 million from the fiscal year 1994 appropriation of \$24.0 million.

While part of the cut reflects budgetary restraints, most of this change reflects a transfer of funds from the PBFP to the new NII grants program. For example, in fiscal year 1994, PTFP expects to fund up to \$7 to \$8 million for distance learning projects that next year would be funded out of the NII grants program.

The Administration remains firmly committed to public broadcasting and the PBFP. We plan to use every dollar wisely. We expect the PBFP to continue to fund projects which establish public television and radio stations in unserved areas. We want to give minorities and women more access to and control of public broadcasting stations and also improve public telecommunications services to the visually and hearing impaired. Finally, we will give every consideration to the importance of maintaining essential equipment at stations in those communities which are currently only served by one public radio or television station. We do not want to see stations "go dark."

The Administration is committed to a sound and viable public broadcasting infrastructure. Public television signals cover over 95 percent of the U.S. population, and public radio signals can reach nearly 90 percent of our people. With the support of the Congress through the years, the PTFP has been extremely successful in meeting the objectives initially set forth for the program—namely to extend the coverage of public telecommunications services in an efficient and economical fashion to as many citizens as possible. We remain committed to this goal and to the goal of increasing public telecommunications services and facilities available to, operated by, and owned by, women, minorities, and other socially and economically disadvantaged Americans.

#### CHARLESTON, WEST VIRGINIA DISTRICT OFFICE

*Question.* Secretary Brown, last year, at my request, the Committee again included language in the report accompanying the fiscal year 1994 Commerce, Justice, State Appropriation bill, directing that the Charleston, West Virginia International Trade Administration office remain in operation at current levels.

In response to one of my questions from last year's hearing the following expenditures were estimated for the Charleston, West Virginia office:

#### CHARLESTON, WV

	Fiscal year—		
	1993 actual	1994 planned	1995 planned
FTE level .....	4	4	4
Personnel .....	\$194,539	\$202,321	\$210,413
Program support .....	8,000	8,320	8,653

## CHARLESTON, WV—Continued

	Fiscal year—		
	1993 actual	1994 planned	1995 planned
Rent .....	18,478	19,217	19,986
Total .....	221,017	229,858	239,052

Secretary Brown, may I have your assurances that this office will remain open at the current level in fiscal year 1995? Please provide for the record the updated staffing and funding levels of the office for the fiscal years 1994, 1995, and that projected for 1996.

Answer. The following are the actual and projected budgets for the Charleston, West Virginia District Office:

## CHARLESTON, WV

	Fiscal year—		
	1994 actual	1995 planned	1996 planned
FTE level .....	4	4	4
Personnel .....	\$202,321	\$205,558	\$210,080
Program support .....	9,000	9,114	9,198
Rent .....	18,938	19,241	19,355
Total .....	230,259	233,943	238,633

The Committee has my assurance that the Charleston, West Virginia District Office will remain open and staffed at the current level for fiscal year 1994, fiscal year 1995, and fiscal year 1996.

## NATIONAL WEATHER SERVICE STATIONS

*Question.* Secretary Brown, last year, at my request, the Committee again included language in the report accompanying the fiscal year 1994 Commerce, Justice, State Appropriation bill, directing the National Oceanic and Atmospheric Administration to continue to operate West Virginia's (and all other states') weather stations at current levels.

On November 24, 1993, I wrote to you, asking for a status report on efforts to maintain current operating and staffing levels at the West Virginia's weather stations. Your response on February 25, 1994, indicated that the National Weather Service is in transition to its new field office structure in accordance with Public Law 102-567 and is maintaining operating levels necessary to ensure no degradation of service as required by law.

Secretary Brown, please update for the record the table included in last year's hearing record showing the location, staffing, funding, and hours of operation of the Weather Service offices in West Virginia for fiscal year 1994, fiscal year 1995, and projected data for fiscal year 1996 through fiscal year 1998.

What is the impact of the long-range plan on Weather Service employment levels in each of the West Virginia Weather Service offices? What are the long-range plans for the Weather Service in West Virginia and Nationwide? What assurance and guarantees are there that communities will not suffer degradation of services?

Answer. As requested, below is an updated version of the table included in last year's hearing record providing specific information on staffing, funding, and hours of operations for each National Weather Service office in West Virginia.

## FUTURE WFO CHARLESTON, WV (TO BE LOCATED AT RUTHDALE, WV)

(Dollars in thousands)

	Fiscal year—				
	1994	1995	1996	1997	1998
Staffing .....	<sup>1</sup> 34	34	34	<sup>2</sup> 28	28
Funding .....	\$1,879	\$2,100	\$2,161	\$1,880	\$1,880
Hours of operation .....	24 hr/day 7 days/wk	24 hr/day 7 days/wk	24 hr/day 7 days/wk	24 hr/day 7 days/wk	24 hr/day 7 days/wk

<sup>1</sup> Staffing changes as a result of transfer of service responsibility for WSFO Charleston; staffing additions throughout fiscal year 1994 associated with the preparation for delivery and operation of the Doppler weather radar (NEXRAD).

<sup>2</sup> Staffing changes associated with the delivery of the advanced weather interactive processing system and WFO operations in initial stage 2.

## WSFO CHARLESTON, WV (LOCATED AT YEAGER AIRPORT)

(Dollars in thousands)

	Fiscal year—				
	1994	1995	1996	1997	1998
Staffing .....	<sup>1</sup> 6	<sup>2</sup> 1	1	1	1
Funding .....	\$360	\$139	\$100	\$100	.....
Hours of operation .....	4 hr/day 7 days/wk	8 hr/day 5 days/wk	8 hr/day 5 days/wk	8 hr/day 5 days/wk	0 hr/day 0 days/wk

<sup>1</sup> Staffing changes as a result of transfer of service responsibility to future WFO Charleston (March 1994) as a change of operations. Existing WSFO Charleston redesignated WSO Charleston with surface and radar observational responsibility.

<sup>2</sup> Staffing drawdown (September 1995) occurs after: NEXRAD radar commissioning at future WFO's Charleston (April 1995) and Roanoke (July 1995); and local warning radar decommissioning (June 1995), automation certification (January 1994) and consolidation certification (September 1995) at WSO Charleston.

## WSO BECKLEY, WV

(Dollars in thousands)

	Fiscal year—				
	1994	1995	1996	1997	1998
Staffing .....	7	7	<sup>1</sup> 1	1	.....
Funding .....	\$563	\$563	\$150	\$100	.....
Hours of operation .....	24 hr/day 7 days/wk	24 hr/day 7 days/wk	8 hr/day 5 days/wk	8 hr/day 5 days/wk	0 hr/day 0 days/wk

<sup>1</sup> Staffing drawdown (January 1996) occurs after: NEXRAD radar commissioning at, and transfer of service responsibility to, future WFO's Charleston (April 1995) and Roanoke (July 1995); and local warning radar decommissioning (September 1995), automation certification (January 1995) and consolidation certification (January 1996) at WSO Beckley.

## WSO ELKINS, WV

(Dollars in thousands)

	Fiscal year—				
	1994	1995	1996	1997	1998
Staffing .....	4	<sup>1</sup> 1	1	1	.....
Funding .....	\$398	\$200	\$100	\$100	.....
Hours of operation .....	16 hr/day 7 days/wk	16 hr/day 7 days/wk	8 hr/day 5 days/wk	8 hr/day 5 days/wk	0 hr/day 0 days/wk

<sup>1</sup> Staffing drawdown (July 1995) occurs after: NEXRAD radar commissioning at, and transfer of service responsibility to, future WFO's Charleston (April 1995), Pittsburgh (March 1994), Baltimore/Washington (June 1993) and Roanoke (July 1995); automation certification (February 1995) and consolidation certification (July 1995) at WSO Elkins.

## WSO HUNTINGTON, WV

(Dollars in thousands)

	Fiscal year—				
	1994	1995	1996	1997	1998
Staffing .....	8	<sup>1</sup> 1	1	1	.....
Funding .....	\$604	\$400	\$100	\$100	.....
Hours of operation .....	24 hr/day 7 days/wk	24 hr/day 7 days/wk	8 hr/day 5 days/wk	8 hr/day 5 days/wk	0 hr/day 0 days/wk

<sup>1</sup> Staffing drawdown (July 1995) occurs after: NEXRAD radar commissioning at, and transfer of service responsibility to, future WFO Charleston (April 1995); automation certification (January 1995) and consolidation certification (July 1995) at WSO Huntington.

As described in the Strategic Plan for the National Weather Service Modernization and Associated Restructuring, the National Weather Service of the 1990's will consist of 116 Weather Forecast Offices (WFO's), 13 River Forecast Centers and the National Centers. The WFO's will replace the current structure of Weather Service Forecast Offices (WSFO's) and Weather Service Offices (WSO's) to provide a uniform level of warning and forecast services nationwide. WFO's will be responsible for issuing watches, warnings, and forecasts, and will concentrate meteorological expertise to provide products and services for its assigned area of responsibility. A WFO will provide quick analysis, accurate forecasts of mesoscale weather and flood phenomena and rapid dissemination of watches and warnings.

In West Virginia, modernized weather service will be provided by WFO Charleston, WV; WFO Baltimore, MD/Washington, DC; WFO Pittsburgh, PA; and WFO Roanoke, VA. Service to 8 counties in eastern West Virginia will be provided by WFO Baltimore, MD/Washington, DC. Service to 9 counties in northern West Virginia will be provided by WFO Pittsburgh, PA. Service to 4 counties in southeastern West Virginia will be provided by WFO Roanoke, VA. Service to the remaining counties in West Virginia will be provided by WFO Charleston, WV.

Public Law 102-567 provides the necessary assurances and guarantees that communities will not suffer degradation of services as a result of modernization and associated restructuring. The law provides that prior to taking action to automate, consolidate, relocate, or close a WSFO or WSO, the Secretary of Commerce must certify to Congress that there will be no degradation of service to the area affected by the action. Each proposed certification must not only meet the applicable modernization criteria, which are undergoing review by the National Research Council, but it is also subject to review by the Modernization Transition Committee established by the law, and by the public, before a final decision is made.

Thus, prior to staff draw-downs at WSO's in West Virginia, the Secretary must certify to Congress that there will be no degradation of service to the communities served by that WSO. Before each of those certifications becomes final, there is ample opportunity for review and comment by weather service users and the public.

In addition, after the final certification action, a National Weather Service employee will be retained in the affected area for at least two years to act as liaison officer, and will facilitate transition to new products and services.

## NATIONAL WEATHER SERVICE PROGRAMS

*Question.* Secretary Brown, on November 24, 1993, I wrote to you asking for a status report, including significant milestone events, on continued operation of the agricultural weather, fruit frost and fire weather services at current levels, and the continued implementation of the Integrated Flood Observing and Warning System (IFLOWS) in West Virginia and surrounding states. Your response of February 25, 1994, indicated that the Integrated Flood Observing and Warning System (IFLOWS) is an extremely important program to the National Weather Service (NWS), especially in support of its efforts to provide the citizens of West Virginia the best possible flood warning service. NWS plans to continue its technical and financial support for the program enhancements and equipment replacement. The NWS expect the entire West Virginia program to function at full capacity in the near term.

Secretary Brown, please provide for the record an update on the progress of this vitally needed project. Your update should include significant milestone events leading to its completion.

*Answer.* The NWS has developed an enhanced communications design for the West Virginia IFLOWS to overcome communications problems. Most equipment required to implement this design has been purchased and installed. This effort has been funded with IFLOWS base funds. To insure the continued functioning of rain gages, the NWS has, throughout fiscal year 1993 and fiscal year 1994, had to divert personnel from its West Virginia offices to troubleshoot and maintain the network at an operational readiness level. The State, with NWS funding, will provide network maintenance for the remainder of this fiscal year. NWS expects the enhanced communications system to be fully installed and operational by the fall of 1994.

NWS plans to continue its technical and financial support for program enhancements and equipment replacement. However, NWS can no longer carry the state's maintenance and operational costs. For the IFLOWS program to work in West Virginia as originally conceived, it requires state funding and a firm commitment to an operational partnership.

## ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

*Question.* Secretary Brown, last year the Congress provided an appropriation of \$322,642,000 for Economic Development Assistance Programs, an increase of approximately \$100 million over the fiscal year 1994 President's Budget of \$223,150,000.

In response to my questions last year, the Committee was informed that as of April 1, 1993, EDA had approved three projects in the State of West Virginia with a value of \$1,757,000. An additional 22 projects, valued at \$7,083,000, are being reviewed.

On November 24, 1993, I wrote to you asking for a status report on the effects of the fiscal year 1994 Economic Development Assistance Programs appropriation on programs/projects in West Virginia. Your response of February 25, 1994 indicated that EDA has made applicable distributions of the fiscal year 1994 program appropriation to its six regional offices. EDA was currently in the process of finalizing its fiscal year 1994 Federal Register announcement outlining the policies and application procedures.

As of December 1993, EDA's regular "pipeline" had \$121.3 million in project activity and, of this amount, approximately \$5.9 million of the pipeline are in West Virginia.

Secretary Brown, please provide for the record an update on the projects that have been awarded and the projects that are currently being reviewed. Please provide for the record an updated list of projected projects to be funded in West Virginia for fiscal year 1995.

*Answer.* Following is the status of EDA's regular programs as of March 31, 1994. Excluded from this presentation are special initiatives in the areas of defense conversion, Midwest Floods of 1993, the Los Angeles Earthquake of 1994 and the Northeast Fisheries.

EDA's fiscal year 1994 pipeline status follows:

## ECONOMIC DEVELOPMENT ADMINISTRATION STATUS OF RESOURCES AS OF MARCH 31, 1994

Program	Obligations	Under review
Public works .....	\$63,786	\$113,459
Planning .....	11,264	14,736
Technical assistance .....	1,357	1,858

**ECONOMIC DEVELOPMENT ADMINISTRATION STATUS OF RESOURCES AS OF MARCH 31, 1994—**  
Continued

Program	Obligations	Under review
Trade adjustment assistance .....	1,600	8,400
Research and evaluation .....		
Economic adjustment .....	5,994	20,397
Total regular pipeline .....	84,001	158,850

Of these amounts, \$1.2 million has been obligated for the State of West Virginia and an additional \$9.3 million is under review. Because EDA grants are discretionary based on competitive merit, the Agency is unable to make budget-year (fiscal year 1995) projections by state.

**TOURISM IN WEST VIRGINIA**

*Question.* Secretary Brown, in last year's hearing, I asked you to update for the record the statistics reflecting the current economic impact that potential international tourism can bring to West Virginia. This information could be helpful to the tourism industry in West Virginia. Your response included the following table:

**ARRIVALS TO WEST VIRGINIA**

(In thousands)

	1985	1986	1987	1988	1989	1990	1991	1992 (estimate) <sup>1</sup>	Change <sup>2</sup> (Percent)
Overseas .....	30	18	32	25	14	30	32	36	20
Canada .....	83	93	96	104	147	183	206	( <sup>3</sup> )	( <sup>3</sup> )
Total <sup>4</sup> .....	114	111	129	129	162	213	238	( <sup>3</sup> )	( <sup>3</sup> )

<sup>1</sup> Estimated, based on three quarters of 1992 data.

<sup>2</sup> 1992 estimate divided by 1985.

<sup>3</sup> 1992 data are not reported by Statistics Canada.

<sup>4</sup> Totals reflect arrivals including Mexico and may not equal Canadian plus overseas arrivals.

**EXPENDITURES TO WEST VIRGINIA**

(In millions)

	1985	1986	1987	1988	1989	1990	1991	Change <sup>1</sup> (Percent)
Overseas .....	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )
Canada .....	3	5	4	5	9	11	13	300

<sup>1</sup> 1991 divided by 1985.

<sup>2</sup> Data are not available due to insufficient sample size.

Source: U.S. Department of Commerce, U.S. Travel and Tourism Administration.

Your response also indicated that expenditure data and information on Canadian arrivals were currently available, please update for the record the statistics provided in the table to reflect the current economic impact that potential international tourism can bring to West Virginia.

Answer. USTTA has updated the table as follows:

## ARRIVALS TO WEST VIRGINIA

[In thousands]

Area	1985	1986	1987	1988	1989	1990	1991	1992	Change (92/85) (Percent)
Overseas .....	30	18	32	25	14	30	32	36	20.0
Canada .....	83	93	96	104	147	183	206	241	190.4
Total <sup>1</sup> .....	114	111	129	129	162	213	238	277	143.0

<sup>1</sup> Mexico figures are not reported, but they are part of the total arrival figures.

Source: U.S. Travel and Tourism Administration, Office of Research.

## EXPENDITURES IN WEST VIRGINIA

[In millions]

Area	1985	1986	1987	1988	1989	1990	1991	1992	Change (92/85) (Percent)	Change (91/90) (Percent)
Overseas .....	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	37	<sup>2</sup> 41	NA	NA	11.0
Canada .....	3	5	4	5	5	9	11	13	333.3	22.2

<sup>1</sup> Data are not provided due to a change in the methodology used to calculate economic impact of overseas travel to the States.<sup>2</sup> The 1991 total is a preliminary estimate. The 1991 and 1992 economic impact studies are in progress.

Source: U.S. Travel and Tourism Administration, Office of Research.

## INTERNATIONAL TRADE ADMINISTRATION

**Question.** Secretary Brown, the report accompanying the fiscal year 1994 Commerce, Justice, State Appropriations bill included the following language at my request: "Finally, the Committee notes that it has fully funded the United States and Foreign Commercial Service request for domestic operations of \$26,517,000. This negates the need to reduce or close any domestic offices, including those in Charleston, WV, and Portland, OR."

Secretary Brown, Please provide for the record the estimated expenditures for the Charleston office for fiscal year 1994, 1995, and 1996. May I have your assurances that this office will be maintained at current operating levels for fiscal year 1995 and fiscal year 1996?

**Answer.** The Committee has my assurance that the Charleston, West Virginia District Office will be maintained at current operating levels for fiscal year 1995 and 1996.

## CHARLESTON, WV

	Fiscal year—		
	1994 actual	1995 planned	1996 planned
FTE level .....	4	4	4
Personnel .....	\$202,321	\$205,558	\$210,080
Program support .....	9,000	9,114	9,198
Rent .....	18,938	19,241	19,355
Total .....	230,259	233,943	238,633

## NATIONAL TECHNOLOGY TRANSFER CENTER

**Question.** Secretary Brown, the report accompanying the fiscal year 1994 Commerce, Justice, State Appropriation bill included the following language at my request: "The Committee urges the Under Secretary for Technology to utilize, to the

greatest extent possible, the National Technology Transfer Center as a resource in the development of the manufacturing extension program."

Secretary Brown, on November 24, 1993, in a follow up to the above-mentioned report language, I wrote to you urging the Commerce Under Secretary for Technology to utilize, to the greatest extent possible, the National Technology Transfer Center as a resource in the development of technology policy and in the manufacturing extension program. Your response dated February 25, 1994, included the following: "The Technology Administration has fully implemented the references contained in both reports with regard to the NTTC at Wheeling Jesuit College in Wheeling, West Virginia. Through the National Institute of Standard and Technology's Manufacturing Extension Partnership Program, a Memorandum of Understanding was signed with NTTC in February 1993, to coordinate the activities of the two agencies in promoting the competitiveness of America's small to medium-sized manufacturers. In addition, the Wheeling, West Virginia NTTC was a recipient of a Technology Reinvestment Project—Technology Deployment Award of \$765,000 in October of 1993.

Secretary Brown, may I have your commitment that you will continue to utilize the National Technology Transfer Center as a resource in the development of technology policy and in the manufacturing extension program? What plans does the Technology Administration have in utilizing NTTC's expertise in the future? Please keep me updated on NTTC's contributions within the Technology Administration.

Answer. The Technology Administration is working to integrate the activities of NASA's National Technology Transfer Center (NTTC) into the Administration's overall technology strategy on a number of fronts.

The NTTC and the National Technical Information Service (NTIS) have developed a Memorandum of Understanding to collaborate on appropriate projects. The first such effort involved the NTTC collection on data of federal laboratory technology resources, and the NTIS publication of that data. The resulting document, Federal Laboratory and Technology Resources, published in October 1993, is available in both hard copy and electronic form. NTIS and NTTC share revenues from the sale of the document.

The NTTC and NIST's Manufacturing Extension Partnership have also established a Memorandum of Understanding. There is currently an NTTC visiting staff member who is on site part-time at NIST helping to better define interactions between the two organizations. The relationship is enhanced by the TRP technology deployment grant provided to the NTTC to develop a training curriculum for the industrial extension agents which will be managed by the MEP. NIST will certainly continue to use the NTTC as a technology referral source when it is appropriate for the companies with which it works.

The Office of the Under Secretary for Technology is currently working with NASA, OSTP, and NTTC, and the State-Federal Technology Partnership (Chaired by former Governors Celeste and Thornburgh) to collaborate on producing an updated and more comprehensive database on State and Local Technology initiatives and resources, as called for in Section 6 of the Stevenson-Wydler Technology Innovation Act of 1980, as amended (15 U.S.C. 3704a), as well as creating mechanisms for better integrating the states into federal technology strategies.

We see the NTTC evolving into an integral player in overall federal efforts to diffuse technology throughout the American economy. We will work closely with them in the future.

#### QUESTIONS SUBMITTED BY SENATOR FRANK R. LAUTENBERG

*Question.* As you know, I have long been concerned about ensuring that the fruits of American ingenuity are protected overseas. U.S. industry loses billions of dollars annually to countries that do not provide adequate intellectual property protection.

U.S. industry is obviously very concerned about these losses. That is why many American industries have established technical assistance programs to promote the enforcement of intellectual property laws overseas.

Because I think our government should be doing more to combat the piracy of American products and ideas overseas, I asked the conference committee for the Fiscal Year 1994 Commerce, Justice, State and Judiciary Appropriations Act to include language on this problem in its Conference Report. The Report language states that "the conferees expect ITA to work with the Patent and Trademark Office, also under the Department of Commerce, to develop a program under PTO's Office of Legislation and International Affairs to provide assistance" (to help foreign governments enforce intellectual property laws).

Just yesterday, I received your reply to my December 23 letter asking how ITA's and USPTO's efforts to implement the Report language were proceeding. I was glad to learn that USPTO's Office of Legislation and International Affairs is already providing training for patent and trademark officials from developing countries. But I'm afraid that lack of IPR protection by many countries—including those who continue to receive American foreign assistance and duty-free GSP privileges—still costs U.S. companies many billions of dollars every year.

Could you give me a better idea of the extent to which USPTO already provides patent and trademark training to developing countries? How many countries are involved? Have you noticed improved performance as a result of this training?

In view of the considerable financial loss to U.S. industry resulting from IPR abuse, should more of the Commerce budget be directed toward such training?

Answer. The USPTO has been providing training to nationals of developing countries for over 25 years. This has ranged from training sessions of one to two days up to an intensive six-month program, in the case of the first class of Chinese patent examiners in 1980. As the demands on the USPTO for training increased, it developed a Visiting Scholars Program in 1985 to provide more effective and efficient training. The Visiting Scholars Program involves three to four weeks of "hands-on" study during which participants learn about various aspects of the administration of industrial property law, patent and trademark examination, and gain an understanding of the role of intellectual property protection as a tool for economic development. In addition, the USPTO has also allowed individuals to attend its Patent Academy which is the vehicle through which USPTO examiners are trained in the examination of patent applications.

The funding for these training courses, that is, the air travel to and from Washington and the per diem during the training courses, has largely come from the individual countries involved and the World Intellectual Property Organization. The USPTO provides instructors and training materials but has never received appropriated funds to underwrite the trainees expenses. The limited funding provided by the USPTO when it received appropriations from taxpayers revenues has essentially been terminated now that the funding of the USPTO comes exclusively from the fees of patent and trademark users with no taxpayer support.

The countries from which participants have come include Argentina, Brazil, Chili, Egypt, Hong Kong, India, Indonesia, Mexico, Malaysia, Panama, the Philippines, Nigeria, Pakistan, Peru, Sudan, Ecuador, Korea, China, Saudi Arabia, Singapore, Taiwan, Trinidad and Tobago, Turkey, Venezuela, Tanzania, Thailand, Uruguay, Yugoslavia, and Zimbabwe.

It is very difficult to separate the motivation for improved enforcement of the intellectual property laws in developing countries. The training provided by the USPTO plays an important role in introducing and educating officials of foreign governments in the principles and values of intellectual property law that the United States Government considers important. The improved operation of the examination and grant of patents and examination and registration of trademarks clearly is improved as a result of such training. At the same time, however, it must be remembered that, especially in more recent years, bilateral trade negotiations have played an important role in convincing our developing country trading partners of the importance of adequate and effective intellectual property law protection. Thus it is difficult to determine how much improved performance comes from training, versus bilateral pressure. However, it is certain that it is a necessary ingredient in improved enforcement of intellectual property laws in developing countries.

As previously indicated, very little of the Commerce budget has been directed toward such training, especially since the PTO has become fully fee-funded by its users who are paying the fees for requested services. It should be noted, however, that the USPTO has been engaged in a rather extensive modernization program of the Mexican Industrial Property Office using funding from the United States Agency for International Development. Some two years ago, the USPTO and the USAID entered into an agreement whereby the USPTO was provided \$500,000 over a two year period to upgrade the Mexican Industrial Property Office and train its staff in all aspects of patent and trademark examination and information dissemination. It is believed that the program has had very direct and tangible benefits for U.S. industry, not the least of which was the facilitation of the issuance of several thousand Mexican patents to U.S. companies and individuals. Additional joint USPTO/USAID programs of this nature would be beneficial in curtailing the financial losses suffered by inadequate intellectual property protection for U.S. industry in developing countries.

## INTELLECTUAL PROPERTY RIGHTS

*Question.* Is your Office committed to using Special 301 to the greatest extent allowed under the new GATT agreement?

*Answer.* The Department of Commerce is fully committed to using Special 301 to the maximum extent allowed to improve the protection for the Intellectual Property of American industry in countries around the world. The USPTO and ITA work closely with USTR in the review of all of our significant trading partners, both developed and developing to ensure that appropriate incentives are provided to such countries to develop and maintain adequate and effective intellectual property laws. The conclusion of the Uruguay Round and the Trade Related Aspects of Intellectual Property Rights (TRIPS) Agreement will actually make Special 301 an even more effective tool to work for improvements in the intellectual property protection of our trading partners. Now that intellectual property protection will be covered by GATT, Special 301 can be used in tandem with the GATT rules to make sure that the Uruguay Round Agreement on the TRIP's is observed. For issues not covered by the new rules and for countries not members of the World Trade Organization, we will continue to use Special 301 bilaterally just as we do now.

*Question.* Does the Department of Commerce have a meaningful role in the process?

*Answer.* The Department of Commerce—both the Patent and Trademark Office and the International Trade Administration (ITA)—has been and will continue to be a key player in implementation of Special 301 and all other efforts to upgrade worldwide Intellectual Property Rights (IPR) protection. ITA works to safeguard the interests of U.S. industry in developing the Department's position for bilateral trade negotiations and actions. In ITA, country specialists provide support and policy input for bilateral negotiations which now span the globe. Industry specialists provide important information on how inadequate IPR protection affects U.S. industrial sectors. Foreign commercial officers provide timely and insightful reports on developments in-country that can profoundly affect the outcome of negotiations. ITA also ensures that U.S. industry is adequately consulted on the U.S. Government's IPR policy through management of the Industry Functional Advisory Committee on Intellectual Property for Trade Policy Matters (currently being rechartered) whose members are private sector experts on all aspects of IPR issues.

*Question.* What are your plans (other than developing a program between ITA and the Patent and Trademark Office) to bolster strong intellectual property protection?

*Answer.* The Department will do the following to upgrade worldwide IPR protection:

- Participate in USG discussions with other countries to improve protection abroad for intellectual property rights, ensure foreign countries' adherence to the TRIP's agreement, and expand market access for the U.S. industry;
- Continue to support the use of Special 301 as necessary to protect U.S. interests; and
- Continue to participate in USG negotiations of bilateral agreements to protect intellectual property, including science and technology agreements and bilateral intellectual property protection agreements which are linked to our bilateral investment treaties.

The Department continues to play a very crucial role in encouraging the protection of intellectual property. The USPTO represents the United States Government in all negotiations conducted under the auspices of the World Intellectual Property Organization and works closely with our developed country trading partners to ensure that the results are favorable for the protection of the products and services of American industry. The USPTO also makes available its cadre of skilled intellectual property law negotiators to USTR to assist in bilateral negotiations conducted under the Special 301 process. The USPTO and ITA play a very significant role in ensuring that the development of the intellectual property regime under the National Information Infrastructure (NII), will adequately protect American films, records, books, and software that will be utilized and transmitted over the NII.

## QUESTIONS SUBMITTED BY SENATOR J. ROBERT KERREY

## INFORMATION INFRASTRUCTURE GRANTS

*Question.* Information Infrastructure Grants for health care, education, social service, public information and public safety were appropriated at \$26 million in fiscal year 1994 and are budgeted at \$100 million in fiscal year 1995. The solicitation for fiscal year 1994 proposals is currently out, with a May deadline.

In view of the large increase from fiscal year 1994 to fiscal year 1995, what differences do you expect in the request for proposals? Will the program be basically the same in both years, with just more of larger grants to be funded in fiscal year 1995 or will you be looking for different things?

Answer. We expect that the 1995 Information Infrastructure Grants (IIG) funding would reflect a greater percentage of demonstration projects than the 1994 grant round. We have sent out more than 7,000 applications for the 1994 IIG grants round. While we have no definite numbers at this time, it is not outside the realm of possibility that we will receive about 1,000 proposals. If this proves to be the case, we will have many more proposed projects that deserve funding than could possibly receive support in 1994. With the increase in funding for 1995, we will be able to fund many more worthy projects than will be possible this year. In addition, we will adopt selection criteria designed to fill existing gaps in the information infrastructure as revealed during the first round of proposals. Those gaps may be of a geographic, technical, or other nature.

Question. Because of the cost in delivering high quality telecommunications services and the anticipated demand under this program, you are likely to receive far more applications than you can fund. In that event, what will you really be looking for—cutting edge technology, new uses, service to new populations or what?

Answer. The IIG program is focused on supporting projects that can serve as models that show the advantages of being connected to information networks. We expect to fund a range of projects that show a diversity in technology used (fiber, coaxial cable, wireless, etc.), application employed (education, healthcare, etc.), population targeted (urban-inner city, rural, etc.) and geographic region of the country. We will also evaluate the projects and work with grantees to disseminate the results widely, so that the impact of each project can be maximized.

Question. NTIA is responsible for the spectrum auction schedule. What is your projected schedule and what revenues are you projecting on an annual basis?

Answer. Title VI, Communications Licensing and Spectrum Allocation Improvement, of the Omnibus Budget Reconciliation Act of 1993 required the Secretary of Commerce to identify at least 200 megahertz of spectrum allocated to the Federal government for reallocation to non-Federal users by the Federal Communications Commission (FCC). The Secretary released a preliminary report on February 10, 1994, describing the government's plan to release 200 megahertz. NTIA has identified 50 MHz of spectrum for immediate transfer to the FCC, which will be completed by August 1994. The remaining 150 MHz of spectrum will be reallocated over the next 15 years. The Act also provides the FCC, not NTIA, with the authority to use competitive bidding (auctioning) in the distribution of spectrum.

Question. NTIS is responsible for providing technical, scientific, engineering and other business-related information from the Federal government and foreign service to the business and industrial research community.

What is your user community?

Is the fee which makes NTIS largely self-supporting a barrier to use by small and medium-sized manufacturers?

Answer. NTIS's user community consists of 77,000 active customers identified as follows: 64 percent or 49,280 customers are U.S. business and industry; 20 percent or 15,400 are foreign organizations; 6 percent or 4,620 customers are Federal, state and local governments; 6 percent or 4,620 customers are academic and public libraries; and 4 percent or 3,080 customers are individuals.

NTIS does not believe that fees charged for our products are a barrier to small and medium-sized manufacturers. This has been borne out on several occasions via customer satisfaction surveys. Customers have repeatedly indicated that our pricing of products and services is reasonable and not a barrier.

Question. NTIS will undertake a one-time initiative to facilitate public access to its data through depository libraries.

Why were the depository libraries chosen?

Do you expect EDA university centers, MBDC's and NIST centers to use this data also?

Answer. The depository libraries were chosen because under Chapter 19 of Title 44 of the United States Code they are expected to have access to all Government publications and make them available to the public for free.

Under the American Technology Preeminence Act, all agencies are now required to provide the National Technical Information Service with all Government financed scientific, technical and engineering information intended for public dissemination. As part of NTIS' initiative to enhance its ability to acquire and to disseminate information electronically, it was considered equally important to upgrade the capability of the depository libraries to receive such information electronically.

Both the National Technical Information Service and its on-line system called FedWorld are available to any user for an hourly fee. We hope and expect that centers sponsored by the Commerce Department would make greater use of NTIS' services. However, client needs will determine how extensively FedWorld will be used by these centers.

*Question.* States which are rural in nature, where the manufacturing base is limited may need more than just knowledge that a data base exists; they may need assistance in determining how it will be useful to them. What can NTIS do to help with this?

*Answer.* NTIS' mission is to disseminate scientific, technical and engineering information; therefore, devotes its resources to ensuring ease of access to a wide range of information. Many agencies and programs in other parts of the government draw on information from NTIS in the services that they provide to rural manufacturers and individuals. Our new on-line system, FedWorld, is available for other agencies to use to provide information, counseling, and feedback with rural communities.

#### NTIS INFORMATION DATABASE

*Question.* In states where research is done to a large extent in the universities, how can those universities access and participate in the NTIS?

*Answer.* Universities can access NTIS through several mechanisms. Many universities have access to the NTIS Bibliographic Database (NBDB) in an on-line environment utilizing commercial on-line information vendors such as Dialog Information Services or STN International. An increasing popular medium is CD-ROM. Several universities subscribe to the NBDB on CD-ROM available commercially from Dialog and Silver Platter, Inc. The CD-ROM is typically placed in the university library and made available to both students and faculty. Universities also have the option to lease the NBDB tapes and mount the data and mount the database on their own computer system.

Most universities also have direct access to NTIS' FedWorld via Internet. As NTIS places more information on FedWorld, universities will benefit even further. For those universities that do not have the capabilities to access NTIS electronically, they can subscribe to our Government Reports Announcement and Index (GRA&I) Journal. The GRA&I Journal, which is published twice a month, is the paper equivalent of the NBDB.

*Question.* EDA already has an infrastructure in a number of states. In Nebraska, for example, we have local economic development districts, an EDA university-supported center which also tied into the NASA technical assistance center. These, it would seem to me, would be logical for NTIS efforts and NIST's manufacturing extension efforts. How do you see the various Commerce efforts related to each other?

*Answer.* NTIS can provide a valuable service in coordinating, marketing and distributing the output of the efforts of Commerce and other Federal agencies. The NASA technical assistance centers and the former NASA industrial application centers (IACS) routinely provide the results of their work in the form of technical reports to the NASA STI program. NASA, in turn, provides these reports to NTIS for public dissemination. NTIS should be viewed as an important component of the network of government that provides scientific and technical information and business assistance services.

Assistance to manufacturers is one part of an overall economic development strategy. The other parts of the Department of Commerce (EDA, NTIS, etc.) as well as other parts of the Federal government (Department of Labor, Small Business Administration, etc.) provide related resources and services. Programs such as the Manufacturing Extension Partnership (MEP) provide access to and help implement appropriate advanced technology and best manufacturing practices to smaller manufacturers. The MEP extension centers also work closely with these other resources (Federal, state and local) to provide the essential related services such as workforce training and organization, business services, and information on financing. We are actively working with a number of these agencies to better utilize and strengthen the existing infrastructure to better respond to the needs of smaller manufacturers.

The University of Nebraska, South Dakota State University, Montana State University, and Pennsylvania State University all have university center grants from EDA which focus on technology transfer and commercialization. It is certainly appropriate for these centers to work in cooperation with any related efforts by other Department of Commerce agencies. EDA's Economic Development Districts provide a network which covers most of the United States. These entities could be used as a resource to disseminate information about all DOC programs and agencies and could be used as a delivery mechanism for many programs.

## NIST INFORMATION NETWORK

**Question.** As NIST seeks to build its extension network, how will it seek to ensure that states like Nebraska are included?

**Answer.** States like Nebraska are already being included in the NIST Manufacturing Extension Partnership (MEP) through the Technology Reinvestment Project (TRP). MEP is the managing Federal agency for the Nebraska Industrial Competitiveness Service, hosted by the Nebraska Department of Economic Development. This project was announced by TRP in February, and we are now in the process of negotiating the cooperative agreement with them. NIST's intention is to transition extension services funded initially under TRP funding to NIST funding, as appropriate, over the next several years.

**Question.** Within the NIST extension program, there is interest both in meeting the existing needs of small manufacturers who are currently in business and in developing newer high tech industries. How are you going to work with states to help them determine how best to meet both needs and to maximize their potential?

**Answer.** The NIST Manufacturing Extension Partnership (MEP) is working with the States primarily through its State Technology Extension Program (STEP) component. STEP allows the individual States as well as groups of States to identify and bring together their resources which support manufacturers. This strategy allows the State itself, with input from NIST, to identify needs and opportunities, develop plans for assistance to manufacturers, and pilot test appropriate services on a statewide or regional basis. The planned services are of use to both existing manufacturers as well as to start-up firms. The STEP program awards planning grants through an annual competitive process.

**Question.** In the first four competitions only about 10 percent of the advanced technology program (ATP) proposals were funded? With the ability to fund about 200 projects under the fiscal year 1995 budget request, how much will an applicant's chances increase?

**Answer.** With the increase in funds proposed for the ATP, there has been a substantial increase in the visibility of the program. In addition, ATP has been working with state and local officials from areas that are currently underrepresented in terms of ATP application and awards in an attempt to make more firms aware of the program. Therefore, it is likely that ATP will get many more proposals than in the past. However, it is impossible to predict the number of proposals that will be submitted or the likely percentage that will be funded.

In order to minimize the private sector investment in proposal preparation, ATP will begin to use abbreviated proposals as the first stage in the application process. Feedback will be submitted to those who submit abbreviated proposals as to whether they should or should not submit full proposals. Applicants would always have the right to submit full proposals. This new procedure will give applicants a chance to assess whether their proposals have a reasonable chance for funding before they invest substantial effort in writing full proposals.

**Question.** Please provide a state-by-state listing of the number of ATP proposals funded during the first four competitions.

**Answer.** Attached is a listing by state which indicates number of proposals submitted and the number of proposals funded.

## ADVANCED TECHNOLOGY PROGRAM BY STATE

State	Proposals received		Awards granted	
	No.	Percent	No.	Percent
Alabama .....	3	0.3		
Alaska .....				
Arizona .....	12	1.3		
Arkansas .....				
California .....	167	18	17	19
Colorado .....	14	1.5		
Connecticut .....	15	1.6	1	1.1
Delaware .....	9	.98	3	3.4
Florida .....	13	1.4	1	1.1
Georgia .....	12	1.3	2	2.2
Hawaii .....				
Idaho .....	1	.1		
Illinois .....	45	5	5	5.6

## ADVANCED TECHNOLOGY PROGRAM BY STATE—Continued

State	Proposals received		Awards granted	
	No.	Percent	No.	Percent
Indiana .....	6	.65		
Iowa .....	7	.76	1	1.1
Kansas .....	2	.22		
Kentucky .....	1	.1		
Louisiana .....	2	.22		
Maine .....	7	.76		
Maryland .....	54	5.9	2	2.2
Massachusetts .....	75	8.2	10	11
Michigan .....	41	4.5	10	11
Minnesota .....	20	2.2	5	5.6
Mississippi .....				
Missouri .....	8	.88		
Montana .....	1	.1		
Nebraska .....	3	.33		
Nevada .....	2	.22		
New Hampshire .....	2	.22		
New Jersey .....	57	6.3	7	7.9
New Mexico .....	6	6.6		
New York .....	71	7.8	5	5.6
North Carolina .....	19	2.08	3	3.4
North Dakota .....	1	.1		
Ohio .....	41	4.5	4	4.5
Oklahoma .....	2	.22	1	1.1
Oregon .....	13	1.4	2	2.2
Pennsylvania .....	39	4.3	3	3.4
Puerto Rico .....				
Rhode Island .....	2	.22	1	1.1
South Carolina .....	12	1.3	1	1.1
South Dakota .....	1	.1		
Tennessee .....	7	.77		
Texas .....	53	5.8	3	3.4
Utah .....	19	2.1	1	1.1
Vermont .....				
Virginia .....	29	3.2		
Washington .....	9	.98		
West Virginia .....				
Wisconsin .....	20	2.2		
Wyoming .....	2	.22		
Total .....	925		89	

**Question.** The budget justification makes several references to development of statistics. BEA, for example, will be doing Green Gross Domestic Product, Census will be looking at pollution abatement costs, etc. How do you intend to determine what part of this is of interest to the public and how do you intend to make it available to the public?

**Answer.** The Bureau of Economic Analysis (BEA) and the Environmental Protection Agency (EPA) are the primary customers for pollution abatement statistics, using this information in statistical programs and policy formulation. The Census Bureau will consult with the BEA, EPA, and trade associations and other groups representing the business community as we expand survey coverage to priority nonmanufacturing industries. We will determine industries to be covered, develop relevant questionnaire terminology, and develop data items consistent with user needs. Other Federal agencies that participate on interagency committees on the environment will be asked for comments and suggestions. The public will be notified of our intention to expand the coverage of the existing survey through a Federal Register notice and have 30 days to comment.

The Census Bureau will publish the results of the pollution abatement information for nonmanufacturing industries in the Current Industrial Report MA-200, "Pollution Abatement Costs and Expenditures". Availability of the information will be promoted on the Internet, electronic bulletin boards, and in various Census Bureau catalogues.

#### STATE DATA CENTERS

*Question.* The State Data Centers—or at least the one in my state—have a wealth of information and also a great deal of expertise in analyzing it. Have you considered making greater use of these Centers both for analysis and for dissemination purposes?

*Answer.* The State Data Center program was begun by the Census Bureau in 1978 with the aim of furthering the dissemination and use of information produced by the Bureau. In 1992 alone, State Data Centers provided data and demographic analyses to over 1.2 million state, local and private sector information users. Our National Performance Review project on expanding data dissemination includes the goal of providing State Data Centers with on-line access to Census statistics so they can better serve their customers.

*Question.* In fiscal year 1994, Commerce has \$80 million for economic adjustment assistance to communities affected by base closings. To whom has this funding been allocated and for what purposes?

*Answer.* Defense Conversion funds are allocated to each of EDA's six regional offices for use in specifically defined geographical areas. Consistent with EDA policies and regulations, all defense economic adjustment assistance is provided through grants to communities, i.e., to public sector entities, states and local governments, and non-profit development organizations of various types. These funds are used to assist communities adversely impacted by base closures, defense contract reductions and cancellations, and reductions at Department of Energy facilities. EDA funds technical assistance, planning, revolving loan funds, business development, and infrastructure enhancement and repair from its defense conversion appropriations consistent with its mission and with Title IX of PWEDA.

*Question.* Do you expect any changes in the emphasis of this program in fiscal year 1995?

*Answer.* No changes in the emphasis of this program are expected in fiscal year 1995. EDA will be assisting communities adversely impacted by Department of Defense contract reductions and cancellations and reductions at Department of Energy facilities.

#### NATIONAL CENTER FOR ATMOSPHERIC RESEARCH

*Question.* Under the budget request, NOAA is to obtain a \$14.4 million increase over base to address weather and climate modelling through the use of advanced supercomputers. Several years ago I had the opportunity to visit a very impressive facility, the National Center for Atmospheric Research (NCAR) at Boulder. Can they be involved in your efforts and can they be encouraged to involve some of the surrounding states?

*Answer.* NOAA has on-going collaborations with NCAR scientists in a number of research programs, including climate change prediction and seasonal/interannual El Niño forecasts, that will have great potential benefit for Midwest states. NOAA's high performance computing research, that is critical to these computer-intensive prediction activities, also reflects this collaboration through: UCAR Visiting Scientists working on a new generation of climate models at Geophysical Fluid Dynamics Laboratory (GFDL)/NOAA; joint ocean-model development activities between NCAR, GFDL, and DOE at Los Alamos National Laboratory; and the experimental use of new parallel architecture computers by the Boulder Front-Range Consortium consisting of FSL/NOAA, NCAR, and the University of Colorado.

While these NOAA-NCAR collaborations have the potential to extend to neighboring states, NOAA is developing direct links to academic researchers in states such as Nebraska concerning issues such as regional climate impact that are important to those states' future. Through its director, Dr. Jerry Mahlman, GFDL is currently involved in negotiations with Dr. Priscilla C. Grew, Vice Chancellor for Research at the University of Nebraska, Lincoln. The University of Nebraska is building a new center of excellence in research directed toward the environment and the economy of the Great Plains. Their College of Agricultural Meteorology is very interested in working with regional climate change scenarios to determine potential impacts on the future viability of that region. The next generation of supercomputers will be the first that can attack regional climate problems seriously. GFDL has already offered to work directly with University of Nebraska scientists to encourage this vital

connection between climate change research and the potential implications of climate change on the economies and quality of life in affected regions.

#### QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

##### RECLASSIFICATION OF PTO RECEIPTS

*Question.* Mr. Secretary, the budget for the Commerce Department assumes that fees currently credited to the Treasury for the Patent and Trademark Office will become available for obligation as if they were offsetting collections. Under the scoring conventions of the Budget Act, this reclassification of existing revenues as user fees results in a decrease in revenues which is subject to a super majority point-of-order on the floor of the Senate. This point-of-order would lie even if the decrease in revenues or Treasury receipts is offset by an increase elsewhere in the President's budget—unless such revenue increase is included in our appropriations bill.

The Congressional Budget Office would score the Subcommittee with \$107 million in budget authority and \$59 million in outlays based on the language submitted by the Administration. OMB assumes no scoring would occur.

Is this loss of receipts to the Treasury offset by an increase in revenues elsewhere in the Commerce Department, or in the budget?

Why is this request being made of the Appropriations Committee, since the reclassification of receipts as spending is under the jurisdiction of both the Judiciary Committee and the Budget Committee?

If we are unable to include this reclassification in our appropriations bill, wouldn't we be forced to appropriate to the Patent and Trademark Office the funds the Administration assumes will be saved by this gimmick?

For the record, please provide the committee with outlay offsets from the budget submission of the Commerce Department sufficient to cover the appropriation for the Patent and Trademark Office that would be needed if this reclassification of receipts cannot be included in the appropriations bill.

*Answer.* Since the Secretary's testimony before the Subcommittee on Appropriations, staff from the Patent and Trademark Office (PTO), the Department, and the Office of Management and Budget have met and have had subsequent discussions with staff from the Congressional Budget Office (CBO) and from the Committees on Appropriations, Budget, and the Judiciary.

The Administration acknowledges the CBO scoring of the PTO discretionary spending and offsetting receipts from the patent fee surcharges. The CBO has scored the PTO with \$107 million in discretionary spending authority and with \$107 million in mandatory offsetting receipts. This is the same scoring mechanism used by the CBO for the PTO in the 1994 budget cycle. According to the CBO scoring of the Administration's proposal, there is no loss of revenue to the Treasury, no reclassification of receipts, and is not subject to a supermajority point-of-order. CBO and the Budget Committee concur in the fact that the request has no PAYGO implications.

The Administration is currently investigating alternatives to its initial 1995 appropriations language for the PTO. The Administration is also in regular contact with staff members of the CBO and of the Appropriations, Budget, and Judiciary Committees.

##### NIST ATP/MEP OUTLAY ESTIMATES

*Question.* Mr. Secretary, the Congressional Budget Office has estimated that the President's Budget exceeds the statutory caps by over \$3 billion in outlays. A large portion of that overage, \$522 million, occurs in programs under the jurisdiction of this subcommittee.

Within the Commerce Department, CBO and OMB have a large discrepancy in outlay rates for the account that includes funding for the Advanced Technology Program and the Manufacturing Extension Program within the National Institute of Standards and Technology. CBO estimates that budget authority of \$517.2 million in this account will generate \$165.5 million in outlays, while OMB estimates the outlays at only \$93.1 million. That's a difference of \$72.4 million.

Some might suggest this a deliberate underestimate of outlays in order to provide a higher program level. Can you explain this dramatic difference in outlay assumptions?

*Answer.* NIST did not make a deliberate underestimate of outlays in order to provide a higher program level. NIST based its outlay rates on careful analysis of actual experience in the Industrial Technology Services appropriation for fiscal years 1991 through 1993. The first year outlay rates for those years were between 2 and

12 percent, which is within the 18 percent spendout rate budgeted for fiscal year 1995. Outlays for fiscal year 1994 new budget authority through February (42 percent of the year) are \$6.0 million or 3 percent of the Budget Authority. Our current estimate for the full year 1994 outlays is \$42.0 million or 18 percent. The Congressional Budget Office utilized a first year outlay rate of 32 percent.

The largest program in this appropriation is the Advanced Technology Program. The award cycle for ATP is lengthy, usually involving six months before any obligations occur. During this period, NIST conducts technical, business, and oral reviews prior to legal reviews by the General Counsel and Financial Assistance Review Board (FARB) reviews by DoC. Additional requirements used to award grants in the ATP program include matching funds by the awardees and IG audits to ensure that awardees are able to adequately report on their activities. The result is that awards are usually made late in the fiscal year. The attached timeline table indicates the approximate announcement and award periods for competitions for fiscal year 1994 and fiscal year 1995. Payments to the awardees usually occur on a quarterly basis. This will result in low outlays in both fiscal year 1994 and fiscal year 1995. The reduction in the outlay rate for fiscal year 1995 is based on actual experience combined with the late award of the grants.

*Question.* If Commerce and OMB outlay estimates are more accurate, does this mean there is a substantial unobligated balance in this account? What are current unobligated balances for the Advanced Technology Program?

*Answer.* The unobligated balance for the Advanced Technology Program as of mid-February, 1994 is \$207 million. As the attached chart indicates, the awards in the 5th general competition, which was just announced March 21, 1994, will not be awarded until August of this year. The awards for the focused programs will not be made until August and September. In programs like ATP, once the competitions are announced and the winners are chosen, the funds are earmarked or committed and can't be used for future competitions. It is anticipated that all current funds will be committed this year but may not obligate until fiscal year 1995.

#### BXA REVERSAL OF 1994 PROGRAM REDUCTION

*Question.* Last year the Commerce Department requested a decrease of \$6.3 million for the Bureau of Export Administration. This decrease, based on decreased workload regarding export controls, was accepted by the Congress, along with a decrease of 123 positions.

For 1995 the Commerce Department is requesting an increase of \$8.6 million for the Bureau of Export Administration. And a restoration of 60 of these positions. What has happened in the past year that reverses one of the few program reductions that was proposed and accepted in fiscal year 1994?

*Answer.* BXA's reductions in fiscal year 1994 were related to workload reduction. Our fiscal year 1995 request seeks funding to implement key elements of the President's National Export Strategy, and his efforts to combat proliferation while at the same time removing unnecessary barriers and restrictions to trade. This will be achieved by supporting the Trade Promotion Coordinating Committee (TPCC) and the Vice President's National Performance Review (NPR) recommendations to reform the federal export control system in our changing world.

Also, the key objectives in the Export Administration Act proposal will place added responsibility on BXA. These will include: encouraging multilateral regimes; increased discipline on unilateral controls; stronger safeguards against proliferation activities; a streamlined export licensing function; increased transparency in the licensing process; sanctions harmonization; and, enhanced enforcement capabilities.

While it is true that as the world becomes more open, opportunities for exports are enhanced, so is the opportunity for diversion and proliferation. In this more open, global market, the threat of proliferation of weapons of mass destruction has never been greater for the simple reason that with greater openness and increased liberalization, countries now have access to dual-use materials as never before.

To deal with this dual reality, it is necessary to hire technical experts to discern when to grant a license (+39 pos, +\$4.4 million) so as not to unnecessarily encumber our businesses. At the same time, we must supplement our enforcement staff (+28 pos, +\$3.3 million) to ensure that products do not get into the wrong hands.

The increase in resources will allow us to focus on post Cold War concerns without jeopardizing our national security or unnecessarily hindering exports. By using these resources to liberalize exports and modernize an outdated export control system, we will show other national that we are ready to function in a new world order. At the same time, by enhancing our enforcement efforts, we will let the world know that proliferation will not be tolerated.

If our requested level of funding is approved it will still be considerably lower than our funding level for fiscal year 1991. Since fiscal year 1991, BXA has been downsizing, delaying equipment purchases and deduced the amount being spent on training.

#### GREEN GDP

*Question.* How will the loss of environmental quality be defined for the purpose of this initiative?

*Answer.* BEA's plan to address the issue of measuring environmental quality is to build up experience and knowledge by phasing in the long-term program. We will begin in Phase I by addressing less complex issues regarding valuing the stock of nonrenewable resources—such as oil, gas, and coal—and the changes in that stock due to depletion and discoveries. The concepts and data for these resources are relatively familiar. In phase II, BEA will work with renewable resources, for which the conceptual problems are more difficult.

Beginning in Phase III, BEA will try to work with environmental resources, such as air and water. It will take several years to do all this, and we expect that research in the United States, in other countries, and in international organizations will make advances and be shared.

When, in Phase III, attention turns to environmental resources, BEA will focus on their economic value. Therefore, in working with environmental quality, we will concentrate on the economic impact of reductions, or improvements, in environmental quality. These include, for example, the costs of investments in pollution control, of increased maintenance and depreciation associated with pollution, and of reductions in agricultural productivity associated with pollution and soil erosion. BEA will rely heavily on the scientific literature and on the experiences that other nations have had implementing these concepts. Although, in theory, one might address this issue by contingent valuation by households of their willingness to pay for improvements in environmental quality, for the foreseeable future BEA will concentrate only on cost-based estimates of the market impacts of changes in environmental quality.

*Question.* Which natural resources will be measured?

*Answer.* BEA has a three-phase long-term work plan for developing integrated economic and environmental accounts. The first phase, which will be reported on later this month, includes BEA's overall accounting framework proposal and prototype estimates for nonrenewable natural resources. These resources include oil and gas, coal, uranium, and selected nonfuel minerals with a scarcity value. BEA will present a range of estimates that will allow examination of the practical consequences of several alternative methods for measuring the stock of natural resources, new discoveries and extensions, depletion, and capital gains and losses. The framework proposal and the alternative estimates will form the basis for public evaluation and improvement of the estimating methodologies and source data.

In the second phase of the work plan, BEA will work to extend the accounts to renewable natural resource assets such as forests, agricultural land, water aquifers, and fish stocks. Development of these estimates will be more difficult because they must be based on less-refined concepts and lower-quality data sources. BEA will also work to improve its initial estimates of nonrenewable subsoil assets.

Building on this work, BEA will move on to issues associated with a broader range of environmental assets, such as the economic impact of the degradation of clean air and water (e.g. the reductions in productivity and increases in costs associated with pollution: lower timber yields and fish harvests, higher rates of depreciation of plant and equipment, additional cleaning costs, and increased health expenditures). Although significant advances will be required in the underlying environmental and economic data as well as in methods, BEA is committed to a long-term cooperative effort with the scientific and economic community to produce such estimates.

*Question.* How will this information be used?

*Answer.* The main purpose of the integrated economic-environmental accounts is to provide consistent and integrated data on the economic effects of the interaction between the economy and environmental and natural resources—by product, by industry, by type of income, by user, and (perhaps, eventually) by region. This detailed accounting of the interactions between the economy and the environment will provide a consistent information base for policy and analytical studies. Such information should increase understanding of the most effective means by which the nation can pursue both its economic growth and environmental quality goals.

## NATIONAL PERFORMANCE REVIEW SAVINGS

**Question.** The National Performance Review proposes that the civilian weather satellite program, run by the National Oceanic and Atmospheric Administration, be consolidated with the weather satellite program of the Defense Department, which is run by the Air Force.

The National Performance Review estimates savings from this consolidation to be \$300 million.

1. What is the status of this recommendation?
2. Are the savings estimates accurate? If so, will the savings accrue to the Air Force or to the National Oceanic and Atmospheric Administration?
3. Please provide for the record the estimated savings and costs of consolidation for both the Air Force and the National Oceanic and Atmospheric Administration from fiscal years 1995 through 2000.

**Answer.** The Office of Science Technology Policy (OSTP) has been working closely with the Departments of Commerce, Defense and NASA to prepare an implementation plan for submission to Congress on polar-orbiting satellite convergence of United States assets. This implementation plan currently is scheduled for submission on April 30, 1994. Answers to your questions should be reflected in this report. I can state that the general tenets expressed in the National Performance Review for this effort are still valid. We will be pleased to answer any follow-up questions you may have after the report is issued or provide you with a separate joint-agency briefing on this topic.

## NEW LOAN PROGRAM

**Question.** Within the Commerce Department the Administration is proposing to reestablish a guaranteed loan program for the Economic Development Administration at a cost of \$50 million in new budget authority.

Mr. Secretary, EDA guaranteed loans had such dramatic loan losses during the 1970's and 1980's it was one of the few programs the Congress actually terminated. A total of \$450 million in loans were written off, with loss rates of 77 percent for steel loans, 59 percent for Trade Adjustment Assistance loans, and 27 percent for general EDA guaranteed loans. By way of comparison, SBA loans currently have a loss rate of 2 percent.

The appropriation of \$50 million would only generate \$269 million in loans, due to the very large subsidy rate of 18.56 percent. SBA Guaranteed Business loans have a subsidy rate of 2.73 percent; that means with this same \$50 million, we could generate \$1.8 billion in SBA loans.

Why are you proposing this new program—or rather, retread of a program—when it didn't work in the past?

**Answer.** A loan guarantee program not only provides an additional tool for economic development, it also provides the most cost-effective means available to the Federal Government to foster economic development and create competitive communities. It provides EDA with a unique opportunity to enhance the process of changing distressed areas into communities that are competitive in a global economy. Instituting an EDA loan guarantee program is an integral part of the new partnership between Government and industry in fostering new competitive communities.

It will leverage private financing for economic development, and serve as a catalyst to encourage private, for-profit businesses to generate new employment opportunities in distressed communities.

It will enhance the ability of private firms to obtain the investment capital necessary to remain or become more competitive in a global economy. It will foster a government-industry partnership that encourages private financing of growth companies and the creation of "quality" jobs in distressed communities. It is designed to encourage more lending by commercial banks in distressed areas by serving as a catalyst and source of capital for growth businesses.

EDA will target assistance to otherwise healthy firms unable to obtain capital because of perceived risk due to unexpected market adjustments to meet tomorrow's marketplace challenges, a firm's location in a distressed community, or the longer term financing needed by firms modernizing to become or remain competitive in a global economy.

The previous program was targeted towards high risk borrowers, those that could not find financing because of their poor financial condition. Approximately 90 percent of the guarantees were approved before 1982, that is, prior to the shakeout in the banking industry that has resulted in the enforcement of tighter credit standards.

**Question.** Will this program be open to both large and small businesses? If small businesses only, why are we recreating a program that already exists in the Small Business Administration?

**Answer.** This program will be available to small and medium-sized businesses, with availability determined by the amount of a firm's financing needs. EDA loan guarantees will generally be in the \$750,000 to \$10 million range, with the average size estimated to be \$2 million. The EDA program will complement the Small Business Administration's Section 7(a) guarantee program for firms that are excluded from the SBA program because the loan amount exceeds SBA's \$750,000 loan limit, thus bridging a major gap in existing Federal assistance to growing and expanding private firms.

**Question.** What will be the level of guaranty for individual loans? Will it be 80 percent? 90 percent? 100 percent?

**Answer.** The maximum percentage of an EDA guarantee will be 90 percent. However, EDA will ordinarily guarantee a lesser percentage and estimates that the average guarantee will be no more than 80 percent. This will increase the amount of a lender's financial exposure and potential loss, and will serve as an incentive to lenders to finance better credit risks.

**Question.** What will be the average size of the loan guaranteed? Will there be a limit on loan size?

**Answer.** The average size is estimated to be about \$2.0 million. While the Agency has not established an official "limit", it is unlikely the contingent liability of any single guarantee will exceed \$10.0 million.

**Question.** The President's Budget indicates the loans will be made available for firms "which are located in urban areas". EDA has traditionally operated in rural and non-urban areas, since urban areas have had access to funds through the Department of Housing and Urban Development. Why are you targeting urban areas?

**Answer.** EDA loan guarantees will be available throughout the country, in EDA-eligible rural and urban areas, for firms that cannot otherwise obtain necessary financing. In addition to the Small Business Administration which provides guaranteed business loans up to \$750,000, the only other source of loan guarantees available to private firms is from the Rural Development Administration's Business and Industrial loan guarantee program. That program is available only to firms located in rural areas and communities of 50,000 people or less. The EDA guarantee program will target firms in areas of distress in all parts of the country, but do so in a way that complements both the SBA and the RDA loan guarantee programs.

**Question.** Was this program requested by the Department of Commerce in its submission to OMB? If not, can I conclude that the Department of Commerce has higher priorities than this program?

**Answer.** Economic development is one of the highest priorities of the Department of Commerce. In putting top priority on the economic recovery, revitalization, and international competitiveness of American business, the Department is fostering a new government-industry partnership for economic growth. Although this program was not initially requested in the Department's submission to OMB, it emerged as part of a renewed emphasis on the role of the private sector in economic development, and the potential for substantial leveraging of private financing for job growth and expansion. It will provide a significant, and cost-effective, tool to foster economic development in an era of increasingly scarce Federal dollars. It will allow EDA to demonstrate the need for and value of private financing of economic development activity, thus supplementing and complementing EDA's existing economic development tools.

#### NOAA FISHING FEES

**Question.** Mr. Secretary the budget for NOAA assumes a total funding level for the Agency's operational account of \$1.833 billion, an increase of \$138.3 million over the 1994 enacted level. However, if we take into account that \$88 million of the increase is assumed to come from increased fees on fishermen and users of marine sanctuaries, the actual increase is \$50 million. The Administration has apparently used the user fee proposal as a way to leverage larger program increases for NOAA. However, there is no guarantee the Congress will accept these additional revenues. The user fee proposal is included in the appropriations bill submitted to the Committee.

What fees would be raised, and how would they be collected?

**Answer.** The proposal to increase user fees by \$88 million under NOAA is comprised of \$82 million in living marine resource fees, \$3 million in additional aeronautical chart fees, and \$3 million in marine sanctuary management fees.

With regard to the living marine resource user fees, NOAA has been working with the Congress and industry/constituent groups to develop a proposal which is both fair and practical. Our guiding principles in developing these fees include the idea that the fees be reasonable and not represent an onerous burden and that revenues generated by the fees be used to benefit the people paying the fees. A specific proposal to generate revenues will be submitted to Congress by the Administration during the Magnuson Act reauthorization process.

The fiscal year 1995 figure for aeronautical charts represents a target figure for increased collections based on an increase to the amount charged for these products. The Commerce Department has the authority to raise the fees on its products including aeronautical charts, based on Public Law 103-121.

An Administration working group is developing an implementation plan for a sanctuary user fee system. When a final proposal is developed, it will be submitted to Congress. Some concerns being addressed by the working group include: Defining a method of collecting user fees that minimizes monitoring and enforcement costs; addressing the legal questions about NOAA's ability to establish user fees in state waters; identifying and drafting the necessary statutory authority to implement a user fee program; and identifying who the sanctuary user groups are and what their impacts are, if any, on sanctuary resources.

*Question.* Specifically, what programs within NOAA would be supported by the increased fees at what level?

*Answer.* The income from the living marine resource fees will be used to offset the cost of proposed increases for living marine resource programs, including developing and implementing ambitious fishery management plans addressing such problems as uncontrolled access in fisheries, overcapitalization, overfishing, controversial allocation decisions between various fishing groups, and wasteful incidental catch. This effort will provide a significant step in the sustainable development of the fisheries industry.

The proceeds from the marine sanctuary management user fees would effectively offset the General Fund budget authority to be appropriated for the Department of Commerce. The increase is to assure that designated sanctuaries are operational and focus on an ecosystem management oriented approach to protection of sanctuary resources. Priority will be given to ensuring that all sites have enforcement, education and research programs. NOAA will re-institute its cultural resource protection program (ie: shipwrecks). Site characterizations defining the status and health of sanctuary resources will be initiated at new sites and continued for sites that have begun this process.

*Question.* Please provide a list of programs and funding levels requested by the Administration that the Department would propose not be funded within NOAA sufficient to cover the outlay savings that would need to be achieved if the fees cannot be included in the Appropriations bill.

*Answer.* We believe the Administration's proposal is the most appropriate and useful way to achieve and reflect needed programmatic increases and fees in the fiscal year 1995 budget. Were Congress not to authorize the proposed increases in fees, the Congress and the Administration would need to determine alternate programmatic cuts, possibly including lower levels of funding for marine resource programs and sanctuaries. At this time, however, the Department has not determined the specific areas that might be cut.

#### REDUCTIONS IN PERSONNEL

*Question.* Mr. Secretary, The President has proposed a reduction in personnel of 262,000 full-time equivalent employees. In the Congress, we hope to use the savings generated by this reduction to fund the war on violent crime.

The Commerce Department would lose only 29 positions in 1995, from 34,655 to 34,626. That's a reduction of eight one hundredths of a percent.

Why is the Commerce Department not participating in the effort to reduce government employment?

*Answer.* The Commerce Department is participating in, and is committed to the President's policy of reducing Federal Employment.

The significant program increases for Civilian Technology, Economic Development, Environmental Stewardship and Export Promotion and Economic Information Infrastructure initiatives included in our budget for 1995 offset the position and FTE reductions assessed to Commerce.

#### DEFENSE CONVERSION

*Question.* The Commerce Department is requesting \$140 million for defense conversion activities through the Economic Development Administration in 1995, an in-

crease of \$60 million over the 1994 enacted level. I'm pleased to see that the funding for defense conversion would be available for communities adversely affected by Department of Energy realignments.

What is the identified need for these additional funds in 1995?

Answer. The \$140 million being requested for defense conversion activities in fiscal year 1995 will enable EDA to respond to the increased pace of base closure activities in 1995 resulting from the 1988, 1991, and 1993 base closure rounds. Additionally, EDA will be assisting communities adversely impacted by defense contract reductions and cancellations and reductions at Department of Energy facilities. Because the next scheduled round of base closures (BRAC 1995) is widely anticipated to be more severe than any previous round, EDA is expecting that the pace of defense adjustment activity will be sustained at a substantial level.

Question. Of the \$210 million appropriated for defense conversion activities through the Economic Development Administration through fiscal year 1994, how much remains unobligated? Why is that?

Answer. The total unobligated balance as of March 31, 1994 is \$127.3 million. Project activity has been developed to fully exhaust this balance which was derived from the \$80.0 million appropriated directly to EDA for fiscal year 1994 and \$130.0 million received from DOD in fiscal year 1992 and fiscal year 1993. These grant applications are in various stages in the pipeline and EDA anticipates obligating the \$127.3 million balance by the end of fiscal year 1994.

Question. How much do you anticipate will be obligated during the remainder of fiscal year 1994?

Answer. EDA anticipates obligating the remaining balance of these funds, \$127.3 million by the end of fiscal year 1994.

#### PUBLIC TELECOMMUNICATIONS FACILITIES GRANTS VERSUS INFORMATION INFRASTRUCTURE GRANTS

Question. Mr. Secretary, for a number of years this Subcommittee has funded grants to public radio and television stations, local colleges and schools, Indian tribes, and other public entities in order to enhance and expand public broadcasting reception throughout the country. This has been particularly important for a number of areas in the west that have trouble getting access to public broadcasting.

The program has hovered around \$20 million for most of the past decade; in 1994 the Congress provided \$24 million, and in addition provided \$26 million for the new "Information Infrastructure" grants program.

In 1995 you are requesting a huge increase for Information Infrastructure Grants; \$100 million would be provided.

However, for Public Telecommunications Facilities Grants, only \$10.7 million is being requested. The Department's budget request states that this program "will be curtailed and refocused on minority, visually and hearing impaired Americans."

Why is this program being reduced, while the Information Infrastructure program would receive an increase of almost 300 percent? In what ways will the PTFP program be redirected toward minority, visually and hearing impaired Americans?

Answer. In fiscal year 1995, the Public Telecommunications Facilities, Planning and Construction (PTFP) will be changed to the Public Broadcasting Facilities, Planning and Construction (PBFP). The proposed reduction in the funding for the PBFP in fiscal year 1995 is largely the result of our decision to incorporate grants for distance learning projects, which up until this year, have been included as part of the PBFP, into the NII grants program beginning in fiscal year 1995. This decision will help to ensure that distance learning projects continue to receive the special attention required if we are going to bring increased educational opportunities to all Americans as part of our NII vision. Also, this decision will allow us to focus more of the available PBFP funds into areas that support minority, visually and hearing impaired Americans.

The proposed increase in the NII grants program is consistent with the Administration's position for bringing a modern telecommunications and information infrastructure to all Americans by the 21st century. The requested amount of money that will be used for grants will demonstrate to the public and private sectors alike, our commitment to bringing this vision to reality. At this time, there is great opportunity for the Government to leverage its investment and stimulate further private sector investment in building the NII. This will result not only in keeping the Nation and its telecommunications and information service providers and manufacturers competitive in the expanding market for telecommunication goods and services, but provides a great opportunity to enhance the delivery of key social services, such as education and health-care to all our citizens.

## QUESTIONS SUBMITTED BY SENATOR MITCH MCCONNELL

## GREEN GDP

*Question.* What is the policy purpose of recalculating our Gross Domestic Product this way?

*Answer.* The "Green GDP" program is part of an international agreement among the nations of the world regarding how to depict statistically their economies. The agreement, which came out of the Rio de Janeiro "Earth Summit" and was approved by the Bush Administration, called for the development of a "System of Integrated Environmental and Economic Accounts" along the lines suggested by the United Nations handbook on environmental accounting.

"Integrated Environmental-Economic Accounts" (IEEA)—the real name of "Green GDP"—do not change any other aspect of the National Income Accounts. Gross Domestic Product—GDP—would continue to be presented as it now is each quarter. Nor would the official figure of "GDP" change. "IEEA"—would simply add a new calculation that parallels the calculation of GDP that enables us to have a better understanding of the economy's long-term growth.

The main objective of the "IEEA" program is to extend the usefulness of the national economic accounts, the family of statistics that is summarized by GDP. "Green GDP"—a term that summarizes the incorporation of natural resource considerations into the accounting system—would complement rather than substitute for the existing accounts. It would be calculated retrospectively and annually, rather than the contemporaneous quarterly calculation of Gross Domestic Product.

The GDP accounts contain various kinds of detail that tell us about the nature of economic growth as well as its quantity. For example, the family of national income accounts tells us how much of our capital stock is being depreciated, so that we know whether we are creating new wealth in the economy. It tells us how much we save both in households and firms, so that we know how much resources are available to finance additions to our wealth.

Similarly, the IEEA gives us added perspective on the "sustainability" of economic growth, much as does information regarding the depreciation of our capital stock or our ability to finance the creation of new wealth. Each tells us whether we are capable of maintaining our current level of GDP.

Thus, the IEEA recognizes—in a way that the existing system does not—that the economy is dependent on natural and environmental inputs. For example, the IEEA would note whether our additions and extensions of reserves for fossil fuels were capable of sustaining current levels of production. In that sense, it would calculate the "depreciation" of natural resources just as it does plant and equipment.

Further, policies based on the objective indicators found in the IEEA would help avoid falsely representing choices between environmental goals and economic growth and would likely be more even-handed than those measures now available. When fully implemented, the IEEA would aim to depict the value of environmental improvements and the costs of obtaining them. This would move us forward dramatically towards ensuring that economic sustainability and environmental sustainability go hand in hand.

*Question.* How will your proposal to include resource depletion in the national accounts work? What values will you attach to such depletion? If prices for natural resources rise, does this mean you'll be showing bigger depletion losses, even though our national wealth might be greater?

*Answer.* BEA's extension of the existing economic accounts will attempt to capture the interaction between the economy and the environment. It regards the environment—including our stocks of fuels, minerals, timber, and other resources as well as the quality of the environment around us—as a series of "assets," just as are private sector plant and equipment. When plant and equipment are "used up" through depreciation, the GDP family of statistics take this into account, just as would a company that allows a depreciation charge to flow from its balance sheet to its income statement. The IEEA calculations do exactly the same thing—it calculates what is "lost" when we use up our resources or environment, or adds back what we gain when we add resources (by finding new ones) or improving our environment.

Depletion is a measure of the contribution to production from the use of a natural resource and thus would be included in GDP. But depletion, like depreciation of plant and equipment, represents the using up of the nation's economic assets and thus depletion would be deducted from GDP to arrive at net domestic product (NDP). Just as accounting for sustainable economic growth requires that the economic ledger include an entry for depreciation to record the using up of plant and equipment, an entry should be made for the using up of natural assets.

By focusing on the economy's use of natural and environmental assets, the IEEA will include the use of cultivated crops, timber, subsoil assets such as oil, coal, and non-fuel minerals, land and the disposal of residuals from production. The integrated accounts will include estimates of the investments (e.g., additions to proved reserves, plantings and natural growth of timber, and cleaner air and water via expenditures for pollution abatement and control equipment) as well as the reduction in the economic value of these assets through their use in production (e.g., depletion).

Whether an environmentally-adjusted NDP ends up higher or lower than conventional NDP will depend on the net effect of the economic value of additions to and depletions of the stock of natural and environmental resources.

Our national income accounts are based on market prices. So will the IEEA. Resources—the value, for example, of a new ton of coal or barrel of oil—would be valued at the prices found in markets, and would track market prices, as suggested by Michael Boskin and other economists. Thus, the integrated accounts would extend the existing system by counting the net contribution of natural resources to the creation of income and jobs, rather than focusing only on the use of labor, capital, and intermediate inputs into production. The IEEA also includes integrated asset accounts and extends the existing accounts by counting the increase in the value of national wealth associated with price increases as well net additions to wealth associated with investment less depletion.

By explicitly capturing the complete effect of increases (and decreases) in the price of natural resources, the IEEA will show the net effect on national income and wealth of an increase in the price of natural resources.

*Question.* To what purpose will the new accounting data be put?

*Answer.* The main purpose of the integrated economic-environmental accounts is to provide consistent and integrated data on the economic effects of the interaction between the economy and environmental and natural resources—by product, by industry, by type of income, by user, and (perhaps, eventually) by region. This detailed accounting of the interactions between the economy and the environment will provide a consistent information base for policy and analytical studies. Such information should increase understanding of the most effective means by which the nation can pursue both its economic growth and environmental quality goals.

*Question.* You say you want to modify the GDP accounts to take account of resource depletion. Under the current system, these accounts are used primarily to tell us whether there is adequate economic activity and employment of resources in the country. This data allows us to judge whether new fiscal or monetary policies are needed. How does your proposal help us do that?

*Answer.* GDP would continue to be presented as it now is each quarter; the official figure of "GDP" would not change. "IEEA"—would simply add a new calculation that parallels the calculation of GDP that enables us to have a better understanding of the economy's long-term growth. "Green GDP"—a term that summarizes the incorporation of natural resource considerations into the accounting system—would complement rather than substitute for the existing accounts. It would be calculated retrospectively and annually, rather than the contemporaneous quarterly calculation of Gross Domestic Product.

GDP is a tool for macroeconomic policy that summarizes the overall size and rate of growth of the U.S. economy. But GDP is only one measure within the family of national economic accounts. In addition to the GDP total, the U.S. economic accounts produced by BEA provide information on national saving and investment, personal income, patterns of consumer spending, international trade, rates of economic growth, and the interdependence between specific industries and regions of the country. These data are used to formulate policies ranging from regional tax analysis and projections to the analysis of the effect of government programs on investment and saving.

Similarly, a single "Green GDP" number would be just the tip of the iceberg. (Indeed, after all the additions to and deductions from the stock of natural and environmental assets are tallied-up, the resulting net domestic product may not be very different from the conventional measure.) The truly valuable contribution of integrated environmental-economic accounts will be their ability to identify and quantify the interactions between the economy and the environment in many ways—by industry, product, user, and region.

*Question.* We also use the GDP accounts to help us compare our economic performance to that of others, for example to see whether our growth is competitive internationally. If we calculate our GDP differently than everybody else, how can we make such comparisons?

*Answer.* As noted above, GDP would continue to be presented as it now is each quarter; the official figure of "GDP" would not change. "IEEA"—would simply add

a new calculation that parallels the calculation of GDP that enables us to have a better understanding of the economy's long-term growth. The main objective of the "IEEA" program is to extend the usefulness of the national economic accounts, the family of statistics that is summarized by GDP. "Green GDP"—a term that summarizes the incorporation of natural resource considerations into the accounting system—would complement rather than substitute for the existing accounts. It would be calculated retrospectively and annually, rather than the contemporaneous quarterly calculation of Gross Domestic Product.

In addition, the "IEEA" program is modelled after the United Nations handbook on such accounting and is part of an international agreement among the nations of the world regarding how to depict statistically their economies. A number of nations are actively working on such accounts and sharing their experiences with each other. BEA has been in regular contact with all of these nations and entities in the course of developing its program, and will continue to consult with them, the United Nations, the relevant committees of the Congress, affected industries, and other interested parties as it develops and implements its program.

#### SUBCOMMITTEE RECESS

Senator HOLLINGS. The subcommittee will now stand in recess until tomorrow at 10 a.m., when we will discuss the Department of Justice's budget request with Attorney General Janet Reno. We will convene in the Russell Building in room 253 at that time.

[Whereupon, at 11:35 a.m., Tuesday, March 22, the subcommittee was recessed, to reconvene at 10 a.m., Wednesday, March 23.]

**DEPARTMENTS OF COMMERCE, JUSTICE, AND  
STATE, THE JUDICIARY, AND RELATED  
AGENCIES APPROPRIATIONS FOR FISCAL  
YEAR 1995**

**WEDNESDAY, MARCH 23, 1994**

**U.S. SENATE,  
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,  
Washington, DC.**

The subcommittee met at 10 a.m., in room SR-253, Russell Senate Office Building, Hon. Ernest F. Hollings (chairman) presiding.  
Present: Senators Hollings, Bumpers, Lautenberg, Kerrey, and McConnell.

**DEPARTMENT OF JUSTICE**

**OFFICE OF THE ATTORNEY GENERAL**

**STATEMENT OF JANET RENO, U.S. ATTORNEY GENERAL**

**ACCOMPANIED BY:**

**KATHLEEN M. HAWK, DIRECTOR, FEDERAL PRISON SYSTEM  
STEPHEN R. COLGATE, ASSISTANT ATTORNEY GENERAL FOR ADMINISTRATION  
MICHAEL J. ROPER, DEPUTY ASSISTANT ATTORNEY GENERAL, CONTROLLER  
ADRIAN A. CURTIS, DIRECTOR, BUDGET STAFF  
SHEILA F. ANTHONY, ASSISTANT ATTORNEY GENERAL, OFFICE OF LEGISLATIVE AFFAIRS**

**OPENING REMARKS**

Senator HOLLINGS. Good morning. The subcommittee will continue its 1995 hearings with Attorney General Janet Reno providing us an overview of the Department of Justice. The Department is requesting a total of \$12.145 billion in discretionary spending for fiscal year 1995. This represents a \$2.8 billion, or 30 percent, increase above the discretionary amount appropriated last year.

Within the \$2.8 billion increase, \$2.4 billion is for the crime control fund to support programs authorized in the Senate-passed crime bill. The bulk of the remaining increase, some \$457 million, would support the operation of the Federal Prison System and the activation of the new Federal prison facilities.

This morning, our ranking colleague, Senator Domenici, who is also ranking on the Budget Committee, is detained down on the Senate floor where the budget resolution is now under consideration. He will momentarily try to come up to engage in at least

part of this hearing. Other than that, Ms. Reno, we welcome you and would be delighted to hear from you at this time.

We can include your statement in its entirety in the record, or you can deliver it as you wish or highlight it as you wish.

#### OPENING STATEMENT

Ms. RENO. Thank you, Mr. Chairman. I am pleased to be here before you today.

We seek a budget totaling \$13.653 billion, including discretionary moneys and moneys from fees. This budget reflects the administration's commitment to address violent crime, as what we believe to be the No. 1 priority in terms of the criminal justice system.

#### CRIME CONTROL FUND

As you have noted, it includes \$2.423 billion associated with the crime control fund the administration is seeking through legislation. Several important crime prevention and control initiatives are requested in the budget, contingent, in part, upon enactment of a strong crime bill.

Let me briefly address the initiatives we anticipate through the crime control fund.

In an effort to enhance the ability of State and local governments to continue to play a central role in focusing on crime and preventing crime, the Department requests \$1.7 billion for community policing. These funds, when added to future increases in 1996 through 1998, will ensure that 100,000 police officers are added to State and local police rolls.

Violent crime is basically handled best at the State and local level. I have watched community policing work around this country and in my own home jurisdiction, and now, in this past year since I testified before you last spring, I have seen community policing initiatives at work. I think it enables police officers to understand their community, to involve their community, and to help citizens participate in policing and establishing priorities. It enables them to understand who the bad guy is, focus resources on him, and get him put away. It enables them to work with the community in preventing crime, and saving youngsters from trouble.

The Department's request includes \$100 million for grants to States to improve their criminal history records and to develop a national instant records check system for firearm purchasers. In so doing, we believe we can reduce the number of weapons in the hands of criminals.

The Department's 1995 budget also requests \$300 million from the crime control fund for critical immigration control initiatives.

#### VIOLENT CRIME

As I have noted, violent crime is fundamentally a State and local problem. I have been on the front lines with others. I have watched local police, year in and year out, deal with the problem of street violence, the problem of violent traffickers. The Federal Government, however, should do everything it can to be supportive and assume appropriate Federal responsibilities. Recognizing that, as I say, 95 percent of violent crime is investigated and prosecuted at

the State and local level, our budget increases aid to State and local law enforcement agencies by \$1.8 billion, a 300-percent increase over 1994 levels.

The Department's budget also includes \$172 million, an increase of \$69 million, for the Office of Juvenile Justice Programs, to strengthen the family, support core community institutions and their work with youth, and emphasize the prevention of delinquency and gang-related activity.

So many people talk about punishment or prevention, Mr. Chairman. I think, after talking with American people, with sheriffs, and with police officers who are on the front line of the fight against crime, that it is punishment and prevention. We do not have a choice. For those who commit violent crimes, we have got to punish them consistent with the crime and make sure that that punishment is carried out. At the same time, I have never met a victim of a crime who would rather have been the victim than to have prevented the crime. It makes a lot more sense if we can identify programs that prevent the crime up front.

The Federal Government's role must be to support State and local efforts and to bolster and assist them whenever possible. Of course, the Department spends considerable resources and devotes a large number of its own staff to combat violent crime. For example, the Federal Bureau of Investigation will dedicate nearly 2,500 agents to this effort in 1995. Further, Director Freeh has redeployed 600 agents from headquarters or administrative jobs to street-level investigations, many of whom will be investigating violent crimes.

Additionally, I have directed each U.S. attorney to expand his or her violent crime initiatives, and to work side by side with their local investigative and prosecutorial counterparts. We are trying to establish—we have worked together with the Treasury officials and officials from the Bureau of Alcohol, Tobacco and Firearms, the FBI, the DEA, the Marshals Service, and Immigration and Naturalization, along with the U.S. attorney's office and the Criminal Division, to initiate an antiviolence initiative that I think is already beginning to see results.

In your State, Mr. Chairman, the U.S. attorney has done so much in terms of developing this violent crime task force, which enables the Federal Government to become a true partner with local law enforcement, to provide intelligence information and to provide technical expertise. We want to expand and enhance that effort in every way possible.

We want to also ensure that our efforts against drugs and organized crime will not diminish, but will, in fact, be enhanced by new cooperative working relationships between the DEA and the FBI, that will enable them to share intelligence on a regular basis and enable them to work together in a cooperative spirit.

#### HEALTH CARE FRAUD

In response to and in concert with the President's health care reform initiative, health care fraud is the Justice Department's second new enforcement priority. I pledged a vigorous enforcement effort to pursue and prosecute anyone attempting to profit from illegal health care fraud schemes. The Department estimates it will

devote over \$54 million to health care fraud in 1995, a 70-percent increase over 1994. I think anybody who commits fraud when dealing with such a precious commodity as health care needs to be focused on and punished vigorously, if convicted.

#### IMMIGRATION INITIATIVES

As I mentioned earlier, the Department's 1995 budget includes a request for \$300 million from the crime control fund for immigration-related activities. We propose using these funds to hire additional Border Patrol agents for high-risk border areas, improve INS' asylum program and its deportation efforts, and provide significant technology enhancements to INS.

For the Border Patrol specifically, we intend to have 1,010 more agents on the line. Of these, 350 are new agents that are being hired in 1994; and 150 new agents will be hired in 1995. In addition, 510 agents are being deployed.

The Department's request also includes \$30 million to better promote and adjudicate the naturalization of legal immigrants and break the cycle of growing backlogs; and \$33 million to help INS reduce the magnet of illegal job opportunities and take action against employers who repeatedly hire unauthorized workers.

To ensure a comprehensive Federal effort, increases have also been requested to strengthen enforcement of the IRCA prohibition against discrimination in employment based on national origin and citizenship.

#### LITIGATION ENHANCEMENT

In the area of civil rights, the administration is requesting an increase of \$11 million for the Civil Rights Division to resolve the growing number of civil rights complaints received. We also plan to increase our efforts in ensuring compliance with the Americans With Disabilities Act, voting rights laws, and mortgage lending and fair housing statutes.

We are requesting an increase of \$4 million to enable the Environment and Natural Resources Division to enhance activities in areas such as Federal facilities cases, Clean Air Act amendment litigation, and natural resource damage claims.

We are requesting additional resources for the Antitrust Division to hire more attorneys and paralegals to examine the increasing number of proposed mergers, particularly in the banking, health care, and telecommunications industries, many of which have international implications.

The Division also proposes an increase in the Hart-Scott-Rodino premerger filing fee from \$25,000 to \$40,000, which will generate a total of \$12.6 million in additional revenue for the Antitrust Division.

#### INCARCERATION AND DETENTION INCREASES

To keep pace with the increasing Federal inmate population, the Department's budget also includes \$101 million to activate new and expand present facilities in West Virginia, Florida, North Carolina, and Minnesota, as well as other facilities in Texas, Massachusetts,

Oklahoma, Oregon, and Arizona. These activations will provide 9,673 new beds.

In addition, the Department is requesting \$74 million to construct a new prison in Louisiana and begin planning and site work for two other prisons in Texas and the western region of the United States. Collectively, these three new facilities will add 4,224 beds in the Federal Prison System.

Because the prisoner population and the size of the judiciary continue to increase, an increase of \$16 million is requested for additional staffing to enable the U.S. Marshals Service to support the workload and to improve the Seized Asset Management Program. The Department's request also includes an increase of \$33 million for the support of U.S. prisoners appropriation to fund the cost associated with approximately 500,000 additional jail days in 1995.

#### COST-SAVING MEASURES

As budgets get tighter, we strive to get the most out of every dollar. Efforts are ongoing to make the most cost-effective decisions possible. I will mention just a few.

The Department received authority to retain up to 3 percent of funds collected pursuant to civil debt collection litigation activities, to be used to pay the cost of processing and tracking such litigation. This should improve the Department's ability to collect on debts owed to the Government—this being one of my priorities.

Duplication and incompatibility of office automation equipment of the DEA and the FBI are of concern to all. The Department will make funds available from existing resources for initial design and development of a joint FBI/DEA office automation system.

In order to eliminate the tremendous duplication of efforts currently spent in booking Federal prisoners, the Department will use existing resources to establish a joint automated booking station to include all Department of Justice components. We anticipate significant savings in future years through the availability of this joint booking station.

The Department's budget request also includes \$93 million in base resources to support the FBI's integrated automated fingerprint identification system. This system, coupled with the FBI's DNA identification program and improved wiretap technology, will provide the Nation's law enforcement community with the most effective law enforcement technology available.

The Department will use existing resources to develop a document processing system to deal with the increasing backlog of FOIA requests. This new FOIA system will enable the administration to implement its new FOIA policy, which encourages disclosure of more information to the public in order to ensure openness in our Government.

#### REDUCTION IN BYRNE FORMULA GRANT PROGRAM

In keeping with the administration's commitment to reduce the Federal work force by 252,000 employees by 1999, and reduce the Federal deficit, the Department's budget includes total reductions of 922 positions and \$554 million. Of this, \$358 million is for the Byrne formula grant program. I want to make it clear that this program was not eliminated in order to finance the crime control

fund. There is no tradeoff here. The Byrne grants were eliminated in order to find financing for core Federal missions, primarily prison operations. Congress has provided billions of dollars to construct prisons; the moneys must now be found to open them and to operate them so that we can make sure that people who belong in prison stay there.

While I understand concerns about losing the Byrne grant funds, I want to point out that under the community policing initiatives, most States will be getting more than they do under the Byrne grant program.

At the same time, I pledged that I would listen to people around this country, to sheriffs, to State attorneys general, to police officers who worked in task forces through the Byrne grant. And in recognition of concerns about the continuation of the multijurisdictional task forces funded through the Byrne grant formulas, we have identified \$125 million in the administration's 1995 budget request that can be used in order to fund them.

The proposed offsets to the pending request include a \$50 million reduction in the public safety and community policing grants, \$50 million from the proposed increases for funding of discretionary Byrne grants, and \$25 million from the proposed \$69 million increase in funding for the Office of Juvenile Justice and Delinquency Prevention. The administration is also supporting an amendment to the crime bill to make the Byrne grant program eligible for funding from the crime control fund. This is necessary to permit the use of the \$50 million offset from the policing grants.

#### PREPARED STATEMENT

Mr. Chairman, this concludes my statement. I would be happy to answer any questions you or the subcommittee may have.

[The statement follows:]

#### STATEMENT OF JANET RENO

Mr. Chairman and Members of the Subcommittee: I am pleased to appear before you today to present the President's 1995 budget request for the Department of Justice. For fiscal year 1995, we seek a budget totalling \$13.653 billion. This is a \$2.729 billion, or 24 percent, increase over the 1994 funding level of \$10.924 billion.

This budget reflects the Administration's commitment to address violent crime as its number one priority. Included in this request is \$2.423 billion associated with the Crime Control Fund the Administration is seeking through legislation. Through this Fund the Department will step up its efforts to prevent crime and fight against violent crime, drugs, and illegal immigration. As President Clinton said in his State of the Union message, "Violent crime and the fear it provokes are crippling our society, limiting personal freedom and fraying the ties that bind us." Thus, in this budget, we are focusing on putting more police in our communities and enabling States and communities to fight crime and drug abuse locally, while increasing the number of employees in the Department only where absolutely necessary.

#### PREVENTION OF CRIME THROUGH STATE AND LOCAL ASSISTANCE

Several important crime prevention and control initiatives are requested in this budget, contingent, in part, upon enactment of a strong crime bill. Let me briefly address the initiatives we anticipate funding through the Crime Control Fund.

##### *Community Policing*

In an effort to enhance the ability of State and local governments to continue to play a central role in preventing crime, the Department requests \$1.7 billion for community policing. These funds will provide State and local grants to hire at least 50,000 officers, not merely to make arrests, but to work with the community to prevent crime from occurring. These matching grants will assist States and localities

in establishing community policing programs across the Nation. An additional \$6 billion will be provided for 1996-1998 to ensure that 100,000 police officers are added to the State and local police rolls, increasing the number of police officers in our communities by over 15 percent. More police on the street working in partnership with the community means less crime and fear of crime.

#### *Brady Law*

The Department's 1995 budget request includes \$100 million for grants to States to improve their criminal history records and to develop a national instant record check system for firearm purchasers. This system will provide an effective and efficient system to check the backgrounds of firearms purchasers. In so doing, we believe that we can reduce the number of weapons in the hands of criminals.

#### *Immigration Initiative*

The Department's 1995 budget also requests \$300 million from the Crime Control Fund for critical immigration control initiatives. Illegal immigration is a continuing problem that threatens this country's immigrant traditions and reduces the ability of State and local governments to provide quality human services. The Administration pledges to seek solutions to this important and controversial problem.

Other funds in the Crime Control Fund may be used for such initiatives as the police corps; drug court programs to provide treatment and counseling and avoid incarceration; boot camps for first-time non-violent offenders; and law enforcement technology. These projects are consistent with our fundamental policy of reducing recidivism as early in the life of the individual as possible.

Let me now turn to a discussion of the elements of our budget request that are not related to the Crime Control Fund, but reflect the Administration's and the Department's priorities for appropriated funds.

#### VIOLENT CRIME

The Department will do everything within its power to help reduce violent crime. Recognizing that 95 percent of violent crime is investigated and prosecuted at the State and local level, our budget increases aid to State and local law enforcement agencies by \$1.8 billion, a 300 percent increase over 1994 levels. Of course, the Department spends considerable resources and devotes a large number of its own staff to combat violent crime. For example, the Federal Bureau of Investigation will dedicate nearly 2,500 agents to this effort in 1995. Additionally, I have directed each United States Attorney to expand his or her violent crime initiatives and to work side-by-side with their local investigative and prosecutorial counterparts. We will go after career criminals and prosecute them to the fullest extent of the law. We are also very concerned about the victims of crime and are committed to ensuring that their rights be respected and upheld. We will also ensure that our efforts against drugs and organized crime will not diminish.

Though our top priority is violent crime, we will not neglect our involvement in fighting other forms of crime. We will continue to prosecute vigorously white collar crime, like financial institution fraud, especially investigating and prosecuting those cases that cross jurisdictional lines. In addition, we will work to ensure that public corruption does not undermine public confidence in our institutions of government.

#### *Juvenile Justice*

If we can begin to resolve the problems of juvenile justice, we naturally will begin to avoid adult criminal behavior. The Department's 1995 request includes \$172 million, an increase of \$69 million, for the Office of Justice Programs' Juvenile Justice Program. Serious and violent juvenile crime increased sharply during the last decade, and juveniles continue to account for an increasingly larger share of violent crime. This requested increase will provide grants to aid in the prevention and reduction of juvenile crime and the treatment of youthful offenders. The funding will build on strategies to strengthen the family, support core community institutions in their work with youth, emphasize the prevention of delinquency and gang-related activity, and control violent youth crime.

The Department's 1995 budget request also proposes the elimination of the Byrne formula grants (\$358 million) and other 1994 earmarks that are either no longer needed or are provided for in the Crime Control Fund; however, we are also requesting an increase in Byrne discretionary grant funding by \$50 million to \$100 million in 1995. The elimination of the Byrne formula grants is requested to support expansion of the Juvenile Justice Program crime prevention activities and provide some of the funding necessary for the Department to maintain its primary Federal law enforcement responsibilities. The Administration believes that the many new State and local assistance provisions contained in the pending Crime Control and Law En-

forcement Act will more than offset the elimination of the Byrne formula grants. These new State and local programs include authorizations for grants for community policing, boot camps and drug courts for youthful and non-violent offenders, and drug treatment in prisons and jails, among others. I should also note that, for similar reasons, the Regional Information Sharing System is also proposed for elimination in 1995.

#### HEALTH CARE FRAUD

In response to and in concert with the President's health care reform initiative, health care fraud—an insidious form of white collar crime that preys on everyone—is the Justice Department's second enforcement priority. I have pledged a vigorous enforcement effort to pursue and prosecute anyone attempting to profit from illegal health care fraud schemes. The Department estimates it will devote over \$54 million to health care fraud in fiscal year 1995, an increase of almost 70 percent over amounts planned in 1994. We may even redirect more resources this year.

#### IMMIGRATION REFORM INITIATIVES

As I mentioned earlier, the Department's 1995 budget includes a request for \$300 million from the Crime Control Fund for immigration-related activities. These funds will enable the INS to further its efforts to implement fully the authorizations provided by the Immigration Reform and Control Act of 1986 (IRCA) and curb illegal entry into our country.

##### *Border Patrol*

Building on the increases received with the help of this Committee in 1994, we propose using these funds to hire additional Border Patrol agents to provide a visible presence at high-risk border areas to deter illegal entry, similar to Operation Blockade in El Paso, and make significant technology enhancements that will enable INS to better use intelligence, dismantle alien smuggling operations, and reduce illegal immigration. Specifically, we intend to have 1,010 more agents on the line. Of these, 350 are new agents that are being hired in 1994, and 150 new agents will be hired in 1995. In addition, 510 agents are being redeployed. Crime Control Fund resources will also be used to improve INS's asylum program and expand its Institutional Hearing Program, which speeds the deportation of criminal aliens.

##### *Naturalization*

In addition to the immigration initiatives requested in the Crime Control Fund, the Department's 1995 budget requests \$30 million to enable INS to better promote the naturalization of legal immigrants. This increase will provide sufficient personnel to adjudicate the increased number of applications for naturalization and break the cycle of growing backlogs. An equal part of this initiative will be grants for volunteer agencies to increase public awareness of the benefits of naturalization and the eligibility requirements.

##### *Employer Sanctions*

The Department's 1995 budget request includes an increase of \$33 million for an employer sanctions initiative in the INS. The key objectives of this initiative are to: (1) reduce illegal employment opportunities; (2) reduce the marketability of fraudulent documents; and (3) protect the rights of citizens and legal aliens with employment authorization. This initiative will help INS reduce the magnet of illegal job opportunities by targeting high-risk industries and taking action against employers who repeatedly hire unauthorized workers. It will also incorporate fingerprint data into work authorization documents, thereby significantly expanding our capability to verify work eligibility electronically.

To ensure a comprehensive Federal effort toward enforcing employer sanctions laws, increases totaling \$6 million have also been included in the 1995 budget for the Executive Office for Immigration Review to handle the increased workload expected from Employer Sanction cases, and the Office of Special Counsel to strengthen enforcement of the IRCA prohibition against discrimination in employment based on national origin and citizenship—a civil right—and for grants and outreach efforts to educate employees and employers about the requirements of IRCA.

#### LITIGATION PRIORITIES

##### *Enhancing Enforcement of the Civil Rights Laws*

In the area of civil rights, the Administration is requesting an increase of \$11 million for the Civil Rights Division to address and resolve the growing number of criminal civil rights complaints received, maintain litigation activities and continue

the Division's public access compliance review program. We also plan to increase by 50 percent the number of technical assistance grants designed to enhance the understanding of and compliance with the Americans With Disabilities Act. Increases are also planned to handle litigation and other enforcement duties under recently enacted Voting Rights laws, such as the Voting Rights Language Assistance Act of 1992 and the National Voter Registration Act of 1993, enable enforcement of the growing number of referrals from the Department of Housing and Urban Development in mortgage lending and fair housing cases, and to respond to an increase in the number of Title VII and Title I complaints received.

#### *Enhancing Enforcement of Environmental Laws*

The Department's 1995 budget request includes an increase of \$4 million to help enforce our environmental laws. This increase will allow the Environment and Natural Resources Division to complete the implementation of its four-attorney-team initiative to provide support to each of the ten Environmental Protection Agency regions as well as to the United States Attorneys' offices; to defend against an expected increase in the number of Federal facility liability and Clean Air Act Amendments cases; and to staff enforcement activities in natural resource damage claim cases and Federal Facility cases wherein the government seeks to recover cleanup costs. It will also allow the Division to defend suits filed against the United States in takings cases, pursue water rights and royalty matters; handle an increase in the number of general stream adjudications.

#### *Enhancing Enforcement of the Antitrust Laws*

We are requesting additional resources for the Antitrust Division to hire more attorneys and paralegals to examine the increasing numbers of proposed mergers, particularly in the banking, health care and telecommunications industries. These industries are undergoing major restructuring that warrants close attention to the resulting competitive effects on consumers, the national economy and the position of the United States in global markets. No increase in direct budget authority will be needed to implement this program expansion. The Division proposes an increase in the Hart-Scott-Rodino premerger filing fee from \$25,000 to \$40,000. This increase, which will generate a total of \$12.6 million in additional revenues for the Antitrust Division, will provide an additional \$6,877,000 for 1995; and, in addition, will fund 35 positions, already on board, from fee collections rather than direct budget authority.

### DETENTION AND INCARCERATION RESOURCES

#### *Bureau of Prisons*

In an effort to keep pace with the ever-increasing Federal inmate population, the Department's 1995 request includes \$101 million to activate prisons in West Virginia, Florida, North Carolina, and Minnesota, as well as other facilities in Texas, Massachusetts, Oklahoma, Oregon and Arizona. These activations will provide 9,673 new beds. For the first time in three fiscal years, the number of new beds will exceed the projected increase in prison population. These resources are in addition to the \$260 million included in the prison budget for full year funding of the dozen facilities scheduled to come on line this year.

Our request for the Federal Prison System includes an increase of \$28 million to cover the cost of supporting a nine percent increase in the average daily population, projected to total almost 93,000 inmates in 1995.

The Department's 1995 budget request also includes an increase of \$16 million for contract confinement. These funds will support an increase in the Community Corrections population, provide housing of Mariel Cubans, aid in the management of the joint FPS/INS Southwest contract facility in Arizona, and fund Federal inmates housed in State and local jails.

In addition, the Department is requesting \$74 million to construct a new prison in Louisiana and begin planning and site work for two other prisons in Texas and the Western Region of the United States. Collectively, these three new facilities will add 4,224 beds to the Federal Prison System.

#### *Support of United States Prisoners Account*

As the investigative and enforcement efforts of the Department and our colleagues in other law enforcement agencies redirect their efforts, particularly in the area of violent crime, demands for Support of United States Prisoners continue to grow. The Department's 1995 budget request includes an increase of \$33 million for the Support of United States Prisoners appropriation to fund the costs associated with approximately 500,000 additional jail days in 1995, representing a projected increase in State and local jail days of 10 percent over the 1994 level. In many ways, this

is not a controllable cost because we cannot honestly make arrest decisions and bail recommendations on the basis of the availability of our own jail space.

#### *United States Marshals Service*

As the prisoner population and the size of the judiciary continue to increase, so does the workload of the United States Marshals Service. The Marshals' ability to carry out their primary responsibilities, prisoner production and ensuring the security of the judiciary, continues to be stretched. An increase of \$16 million is requested for additional staffing to enable the Marshals to support the workload created by filling judgeships and diverse judicial locations, and to improve the seized asset management program.

In addition, the Department is proposing to make non-personnel expenses within the Marshals' Seized Asset Management program reimbursable by the Assets Forfeiture Fund. To reflect this proposed change to the source of funding, we have decreased the program request by \$8 million. The request also includes a \$7 million reduction for the Marshals to implement the President's administrative cost and Federal workforce reductions. Because of these offsets, the net impact of the proposed program increases on the budget is minimal.

#### MORE EFFICIENT USE OF EXISTING RESOURCES

As budgets get tighter, we must strive to get the most out of every dollar. Efforts are ongoing to make the most cost-effective decisions possible regarding the expenditure of the Department's resources. Let me cite a few examples of actions we are taking with existing Department resources:

##### *Debt Collection*

Consistent with the Vice President's National Performance Review Report, the Department sought and received authority from Congress to retain up to three percent of funds collected pursuant to civil debt collection litigation activities, to be used to pay the costs of processing and tracking such litigation. This should improve the Department's ability to collect on debts owed to the Government. In addition, we are seeking to reduce our litigation load and our requirements for judicial resources in routine cases. A proposal that I hope we will send to the Congress in the near future would permit our client agencies with mortgage loan and guarantee portfolios to use a device currently available in over one-half of the States: non-judicial foreclosure on secured property.

##### *Development of a Joint FBI/DEA Automated System*

Duplication and incompatibility of office automation equipment of the DEA and the FBI are of concern to all. Collaborative efforts in office automation will be cost-effective and enhance communications and information sharing between the two agencies. The Department will make funds available from existing resources for initial design and development of a joint FBI/DEA office automation system.

##### *Automated Booking Station*

In order to eliminate the tremendous duplication of effort currently spent in booking Federal prisoners, the Department will use existing resources to establish a joint automated booking station—including all Department of Justice components before, hopefully, expansion is offered to other criminal law enforcement agencies. This system will be a National Performance Review laboratory. We anticipate significant savings in future years through the availability of this joint booking station.

##### *The Leading Indicators Crime Information System*

I have been concerned that existing statistical programs are not being adequately utilized to provide information useful in combatting crime, particularly violent crime. Accordingly, the Department's Bureau of Justice Statistics is developing a new indicators system to detect and measure chronic and emerging crime problems across the Nation. We anticipate that once this system is up and running smoothly, timely data that local law enforcement can use will be produced for distribution and use throughout the Nation.

##### *Integrated Automated Fingerprint Identification System*

The Department's 1995 budget request includes \$93 million in base resources to support the FBI's Integrated Automated Fingerprint Identification System (IAFIS). As you know, IAFIS will be a rapid response, paperless system that will receive and process electronic fingerprint images, criminal histories and related data on convicted felons. The system will be a major new component of our national law enforcement information system. This system, coupled with the FBI's DNA identifica-

tion program and improved wiretap technology, will provide the nation's law enforcement community with the most effective law enforcement technology available.

*Freedom of Information and Privacy Act (FOI/PA) Policy*

The Department will use existing resources to develop a document processing system to deal with the increasing backlog of Freedom of Information and Privacy Act (FOI/PA) requests. We hope that this system will serve as a prototype for other Department requirements in this area. Moreover, this new FOI/PA system will help the Administration implement its new FOIA policy, which encourages disclosure of more information to the public.

DECREASES

In keeping with the Administration's commitment to reduce the Federal workforce by 252,000 employees by 1999 and control the Federal deficit through reductions wherever feasible, the Department's 1995 budget includes total reductions of 922 positions and \$554 million, including the Byrne formula grant reduction. These reductions are the result of administrative savings, absorbing the 1994 locality pay increase, and other personnel savings and reductions.

We believe we are presenting a balanced approach to the often conflicting needs of the Nation. In this budget, we are requesting prudent increases and making necessary cutbacks.

Mr. Chairman, this concludes my formal statement. I am happy to answer any questions you or other Members of the Subcommittee may have.

BYRNE FORMULA GRANT PROGRAM

Senator HOLLINGS. Thank you very much, General Reno. There is no question that you have had experience in community policing down in Miami. It has worked. We have had good results with it similarly in my hometown. But that last little rhubarb of where the money is coming and where it is going in regard to the Byrne grant program, I can detect in your testimony a sensitivity about it.

Specifically, we have the Byrne grant program and it is working. In fact, it has worked extremely well. Local law enforcement, community policing, addiction, and treatment programs, prosecutors, deputies, statewide grand juries have all participated and benefited. They know under the formula they are going to get a certain amount of money. In my little State it is \$5 million out of that \$358 million, and they count on it and it is working.

Now, what happens is they come with this new community policing program. You are requesting \$1.8 billion, but no formula. We have been through these experiences before. The local police and sheriff and everything think that if they call the Congressman, call the Senator, or whoever it is, that we'll listen to them and understand their need and intercede on their behalf. How are we going to listen to all of them? I do not know how many of them we have in the country but you may as well give up because the phone is going to ring off.

Specifically, we had a situation like this once with an insurance company back home. Capital Life was trying to find a new slogan for its company, and we finally got the winning slogan which was, "Capital Life will surely pay if the small print on the back don't take it away".

You have a \$1.8 billion national program, but you took away my \$5 million South Carolina program and we have to pray to get any more money. That is not going to fly. I do not know where they got the idea of putting \$1.8 billion instead of \$358 million in the program, and not having a formula or some representation to all of us

that at least the moneys that were in the Byrne grant program would continue.

You saw the vote yesterday on the Senate floor. There is overwhelming support for the continuation of the Byrne grant program. And, as you summed up just a moment ago, you are very sensitive to it, but can we not do better? I can tell you what I'll recommend we do in the Appropriations Committee and this subcommittee. I'll recommend we take \$358 million from the \$1.8 billion and stick the Byrne program back in there.

Who eliminated that? I understand OMB did, not you.

Ms. RENO. Well, we look forward to working with you, Mr. Chairman, because one of the points that the Senate has made in the Senate crime bill, in the minimum set aside per State, provided that it would equal six-tenths of 1 percent of the total.

Under that, as I read it, each State would get \$10,200,000, more than the current \$5,192,000 for South Carolina. What we need to do is to work together to make sure that the small town, the small county, the rural areas are as focused on as the major urban areas, because as I have said consistently, so much of the problem of crime has now spilled over into those areas. We need to work together to fashion something that will allay fears and make sure the moneys are spent as wisely as possible.

Senator HOLLINGS. Well, it is an education to all of us. We had a bill just last week and the week before that had to do with technology and the advancement of it. It had to do with small business getting assistance to commercialize its technology. Well, the bill that passed under President Bush in 7 minutes, took 7 days. The whole argument was about money—it had nothing to do with technology or anything else like that.

The opponents didn't want the moneys going to the Secretary of Commerce. They said when he was the chairman of the Democratic Party he said that California was the beginning and the end of Presidential politics. The opponents felt that if these moneys went to the Secretary of Commerce, he would use the money to carry the State of California.

If the other side of the aisle is going to look upon every program that passes here without a kind of formula or otherwise as a kitty or political fund, then we are in deep trouble. But that is a fact of life.

So, I had to hold that floor for 7 days to get a little bill that was unanimously passed out of this committee. So, this is the same sensitivity they had with respect to the crime bill that jumped from \$11 to \$22 billion overnight. And, everybody is going to want a prison, everybody is going to want a community police task force, everybody is going to want a violent crime task force.

I just thought as the Attorney General you ought to understand what is going on up here on the Hill. There is a tremendous sensitivity about eliminating the Byrne formula grant to States. I think the better approach on community policing is to take the community policing that we have got. It has the elements of your violent crime initiative, has everybody working together. If they get more, fine. I will look at that formula and work with you and your office.

But if we had a markup in the next 10 minutes I can tell you right now they would mark up \$358 million for the Byrne formula. We are going to keep this program going, so the \$1.8 billion would drop to \$1.5 billion or something like that. I am convinced of it. And I just wanted to comment so you would understand it.

#### VIOLENCE IN SCHOOLS

I am particularly interested in your efforts on violent crime. A young man was gunned down in the hallway of a high school in the middle of the afternoon in Columbia, SC, and another one in Goose Creek. I understand your violent crime task force is working together with the FBI and the sheriffs, and the solicitor's offices, looking into these shootings.

Are the U.S. attorneys directed to focus their attention on violence in the schools?

Ms. RENO. Yes; very much so. Here is what we have tried to set up. The Director of the FBI, the Administrator of DEA, the head of ATF and I joined together in a conference call to over 200 U.S. attorneys, special agents in charge of the various law enforcement agencies represented. It was a historic call in which we said, look, we are working together in Washington. Violent crime is the first priority of law enforcement, it must be, but we want to be a partner with local law enforcement.

And we are urging you to work together in your district, to look at the problems in your district, knowing that it is going to vary from one community to the next. But school violence is one of the critical issues that we face in America today. Identifying career criminals, identifying the violent traffickers, trying to identify the different types of violence, the different sites for violence, whether it be school or public housing, and then working together in partnership with local law enforcement: not presuming to tell local law enforcement what to do, but to work out plans that address these different sites and types of violence, and design strategies that can work.

With respect to school violence, that is one of the critical issues because I will tell you, Mr. Chairman, wherever I go the American people want their schools to be safe, and we want to do everything that we can to support local law enforcement in ensuring that effort.

We also urge the full funding of the Safe Schools Act so that we can make sure that they have security personnel as necessary, that equipment is provided as necessary, and that programs that have been proven successful that deal with conflict resolutions in the schools, peaceful conflict resolutions, can be supported.

There is so much that can be done to deal with school violence, and that is one of our priorities.

#### FEDERALIZATION OF STATE CRIMES

Senator HOLLINGS. Very good. Well, we appreciate your leadership on that score.

Let me ask, since we are on the crime bill and the trend appears to be the federalization of numerous crimes now prosecuted at the State level—I do not know where we are going to end up in that regard. We had an earlier hearing with the Supreme Court and

they were concerned about turning the Federal courts into police courts. I would like to have your comments about the federalization of State crimes and the shifting of the State criminal enforcement to the Federal system. I think that somewhere, somehow, we have got to put a stop to it.

Unfortunately, I know a lot of politicians—that we will not identify—who will go down on the floor and vote aye to federalize any kind of crime at all because the little TV squib when you are running next time is going to say you were against that particular crime, whether it happens with a knife, or a pistol, or this or that.

Do you have any suggestions on that crime bill about whether we've gone too far in overfederalizing?

Ms. RENO. I have been concerned for some time that there is a reaction to crime just by overfederalizing that does not address the underlying issue. Violent crime in most of its forms can be handled far better by local law enforcement, by local courts, by local correctional officials, and State officials.

To that end, I wanted to do a thorough appropriate review of the matter, making sure that we included all concerned and that it was a nonpartisan sensible review. We convened what we call a three-branch conference on March 7 that had representatives of the Federal judiciary and State supreme court chief justices. Chief Justice Rehnquist graced us with his presence, and I was so pleased that he would be there.

There were State correctional officials, Federal correctional officials. There were local judges and Federal district judges. There were two or three representatives from the National Association of Attorneys General, and there were local prosecutors. Everybody at the State and Federal level was there. And it was interesting to see almost unanimous support for the fact that it does not help to federalize these crimes. What we need to do is to share our resources the right way.

And to that end, we formed four working groups, and we hope to focus on how we can look at how we use Federal and State prison resources, Federal and State investigative resources to get the job done the right way.

To give you an example, by sending FBI agents to the field, by focusing on violent crime, that does not mean that the crime will be prosecuted in Federal court. That means that the FBI, who is there in that community and has knowledge about different people in the community, and the DEA, who knows about the violent traffickers, can in many instances help the local homicide unit solve the crime. That case will be prosecuted in State court.

The chief of police of Los Angeles' officers has told me that it is DEA information that oftentimes gets those homicides solved. So, it is a partnership, how we use Federal resources, State resources, State prisons, Federal prisons to make sure that the bad guys are put away and kept away. And I do not think that federalizing just by itself is going to address that problem. It is going to be a partnership of everybody working together that I think will ultimately solve the problem.

## MANDATORY MINIMUM SENTENCING

Senator HOLLINGS. Well, in a sense it is overkill. On mandatory minimums I would like to hear your view on the matter of discretion because I think it should be returned to the Federal district judge.

During our hearing with the judiciary, Judge Walker from New York, who is the chief of the Federal Judges Association, was describing how, for example, in a case down in Mississippi, a young lady 19 years of age really fell in love with this guy who was dealing in drugs. She knew he was dealing in drugs and everything else, but she had no part of it. But an undercover agent got her to give the telephone number of the particular individual they were trying to hit, and she did give the telephone number.

The young woman was then indicted as part of the conspiracy with those six or seven seriously involved in that drug conspiracy and everything else. Three of them had some information, so they gave the information. And on that information the U.S. attorney, in fact, it was an assistant U.S. attorney, comes in and gives them a reduced sentence on a plea bargain. Two of them got 3 and 4 years. But she got the mandatory 10 years.

Here was a young 19-year-old who had no knowledge—nothing to trade. If she had had some knowledge she could have dealt too and given out some information. Here are these assistant U.S. attorneys that are not Article III judges—they do not have to come up before the Congress and get into a confirmation hearing, and get cross-examined as the judicial nominees do. I just had a judicial appointee before the Senate Judiciary Committee, and there was extensive questions and cross-examination, which is appropriate.

But here that little assistant U.S. attorney gets selected and fills out a form. There is no cross-examination and no testing whatever. He can vary and has sentence discretion, whereas the district judge does not. And here the district judge was blamed for putting a 19-year-old away for 10 years because that is what the law says.

Can we not get that changed in that crime bill?

Ms. RENO. There is a provision in the Senate bill and now in the bill that has come out of the House Judiciary Committee that provides a focus on nonviolent—true nonviolent—first offenders who come under the minimum mandatory if they are not essential figures in a drug deal. It focuses on that type of case and provides a safety valve that melds the minimum mandatory sentence into the sentencing guidelines and puts some limits on it, and I think that addresses the problem.

I think it is important, however, that we retain the minimum mandatories for truly dangerous offenders in certain situations. And I think we can work together to craft a provision in the crime bill that addresses everybody's concern. The American people want the bad guys put away. They want the career criminals off the streets. They want to make sure that they are in prison.

But I think many people feel, and I certainly do as you do, that we are taking valuable prison space for somebody who does not need that prison time to convince them that they never ever want to do it again.

Senator HOLLINGS. Let me yield to Senator McConnell.

Senator McCONNELL. Good morning.  
Ms. RENO. Good morning, Senator.

#### TORT REFORM

Senator McCONNELL. Thank you, Mr. Chairman. I wanted to pursue just for a moment the issue of tort reform. It seems some cracks are finally appearing in the tort reform logjam we have had here in the Senate.

Senator Kassebaum's aviation liability bill passed the Senate overwhelmingly I believe just last week. And I noted with some interest that malpractice reform is making some headway in the House, pulled along obviously by the health care debate. And the product liability bill will in all likelihood come out of the Senate Judiciary Committee some time soon.

I am curious as to whether you are in general a supporter of tort reform, and whether or not the Department has taken a position on the aviation liability or the product liability bills, or just tort reform in general. I am curious as to what your views are and what the administration's views are on that subject.

Ms. RENO. When I took office, Senator, I said it was important that we address these issues, that we address them in a thoughtful way, trying to be concerned with three factors: One, the cost of litigation, which is prohibitive in some instances to people who have to get involved or who are unwillingly involved in it; two, the delays associated with the litigation; and three, the fact that a large group of American people do not even have access to the courts because they are so costly.

We then established a group in the office that focused on civil justice reform. I was concerned, however, because I did not feel that there had been a sufficient focus on the issues that you have just addressed, and I asked them please to go back to the drawing board and let us see where we stood.

I have not received a report from them, and if I may, Senator, what I would like to do is report back to you, even come visit you and give you where we stand on that effort.

Senator McCONNELL. So at the moment the administration does not have a position on the aviation bill, or any of these.

Ms. RENO. Not to my knowledge.

#### IMPACT OF LEGISLATION ON LITIGATION

Senator McCONNELL. You mentioned providing more people access to the courts. It is rather costly now. I noted in your testimony in the subtitle, under subtitle "Litigation Priorities" a significant increase in your own cost. I noticed an \$11 million increase you would like to have for the Civil Rights Division, 50 percent increase, plan to increase by 50 percent the number of technical assistance grants designed to enhance the understanding of and compliance with the Americans With Disabilities Act, additional litigation enforcement duties under the Voting Rights Act, the Voter Registration Act, and so on. Obviously, the crush of litigation, if you will, is having an impact on your budget as well.

We frequently around here pass bills—we do it all the time—with not a moment's thought to what may end up in court, and I have been thinking of and will be soon introducing legislation

amending the Senate rules to require that we have reports on the litigation impact, so that Senators could have a sense before they vote on a bill of what is likely to be the impact on the country of our actions.

I am curious, just in concept, whether or not you think that might be useful for us to have some awareness as we pass legislation of what kind of litigation impact that is going to have on the country.

Ms. RENO. It has troubled me—I once worked for the Florida House of Representatives, and it troubled me then that we sometimes passed laws without considering the fiscal implications either in terms of legal impact or otherwise. It is very important as we review legislation that we consider its long-range and short-term impact, and though I have not seen your proposal, I generally favor such review.

I think it is important that we focus, though, in terms of what we can do to make courts truly accessible to everybody, and by truly accessible, I am talking about the businessman who finds it too costly to get his clearly disputable issue resolved. So what I want to do is try to work with all concerned—the business community, the legal community—to address common sense proposals that can make the whole system of litigation far more reasonable in terms of cost and currency.

#### ALTERNATIVE DISPUTE RESOLUTION

Senator MCCONNELL. I assume your working group, if that is the proper term, is looking at ADR as well as other suggestions to resolve disputes.

Ms. RENO. That was one of our major points. When I went to law school, they did not teach courses in negotiation. I have been so impressed with some of the programs I have seen in continuing legal education that teach real negotiation skills.

I have asked as a part of this whole civil justice reform effort that we investigate what training should be provided for all Department of Justice lawyers in terms of negotiation and the use of alternative dispute resolution, and that as part of this working initiative that we look at what protocols should be established to address just that issue.

Yesterday, I met with most of the attorneys general from the States. We talked about what could be done in terms of ADR negotiation protocols to resolve issues between the State and the Federal Government before we reach the courtroom, before they reach the filing level.

I looked from a distance at the Federal Government and watched it announce this standard and that standard and say that prisons had to meet certain requirements, and too often people did not know what to expect. They did not understand the regulations. You cite the efforts we want to undertake with respect to the Americans With Disabilities Act. As much as we can educate people and work with people to let them know what is expected, I think we can avoid litigation, but I want to do everything I can to avoid litigation when we can resolve disputes much more peacefully and at much lower cost in other arenas.

Senator MCCONNELL. So it is reasonable for me to assume that at some point the Department and the administration will have an expressed view on some of these tort reform bills that are moving in the Senate, such as the aviation liability bill, the medical malpractice provision that seems to be moving in the House, at some point?

Ms. RENO. I will report back to you, Senator, and I will check and give you a status report, probably tomorrow.

[The information follows:]

#### CIVIL JUSTICE REFORM STATUS

The Department's comment on the status of the Civil Justice Reform review will be provided to the Subcommittee as soon as the Department's response is finalized. The response to the inquiry is now being reviewed by the appropriate officials within the Department.

#### REPORT ON YAKIMA VALLEY LAW ENFORCEMENT

Senator MCCONNELL. Thank you. One other area—oh, before I forget, Senator Gorton could not be here this morning, and there is no reason you would remember this off the top of your head, but last year in our bill in the Commerce, State, Justice appropriation bill, Senator Gorton added language asking you for a report by the end of March 1994 on the Federal law enforcement needs of the Yakima Valley. Senator Gorton has completed his report and recommendations, and I believe that has been sent to you. He just wanted me to remind you of that date coming up at the end of March.

Ms. RENO. Thank you. I will check on that, too.

[The information follows:]

LETTER FROM SHEILA F. ANTHONY

MAY 25, 1994.

Honorable MITCH MCCONNELL,  
*Subcommittee on the Departments of Commerce, Justice, State, and the Judiciary,  
Committee on Appropriations, United States Senate, Washington, D.C. 20510.*

DEAR SENATOR MCCONNELL: By this letter, we are providing to you materials that were prepared in response to a request by your Subcommittee for a report from this Department on violent crime in the Yakima Valley area of Washington State. Please pardon our delay in responding to this request. Since the Committee print of the 1994 Justice Department appropriations bill did not include the language calling for this report, the request was inadvertently overlooked.

Senator Slade Gorton has expressed to the Department his concern about crime throughout the state of Washington. As a result, we asked United States Attorneys Katrina C. Pflaumer of the Western District of Washington and James P. Connelly of the Eastern District of Washington to assess the violent crime problems and law enforcement needs in their districts. The materials they provided to us comprise the attached report.

In the meantime, we are working closely with all U.S. Attorneys as they implement the Administration's Anti-Violent Crime Initiative, which Vice President Gore and the Attorney General announced on March 1, 1994. The initiative is designed to coordinate the efforts of federal, state, and local prosecutors and investigative agencies around the country in addressing violent crime. Your continued support for such partnerships will undoubtedly enhance their ability to achieve meaningful results.

I hope this information is helpful. If we can be of further assistance with regard to this or any other matter, please do not hesitate to contact this office.

Sincerely,

SHEILA F. ANTHONY,  
*Assistant Attorney General.*

## OVERVIEW OF VIOLENT CRIME, WESTERN DISTRICT OF WASHINGTON

## DISTRICT DESCRIPTION

The Western District of Washington consists of the 19 western counties where 3.8 million of the total 4.8 million Washington State population lives. The District's boundaries are formed on the South by the Columbia River which divides Washington and Oregon, on the West by about 157 miles of sparsely populated Pacific coastline, on the North by the inland waters of Puget Sound and the British Columbia border (for a total of 3,026 miles of tidal shoreline), and on the East by the Cascade Mountains. Each county has a sheriff's department responsible for general law enforcement in unincorporated areas and some cities by contract, a county prosecuting attorney's office, and a number of local police departments (approximately 180 in total for the District). A Statewide police agency, the Washington State Patrol, has primary jurisdiction for traffic enforcement on intrastate freeways and highways. It also operates the Criminal Justice Training Commission and crime laboratories which serve local, State, and federal law enforcement agencies. Special police departments serve the various military installations, tribal reservations, national parks and major universities.

Law enforcement agencies in the district without exception are highly professional, competent, well-trained and cooperative. As in every area of the country, the overwhelming problem is the lack of sufficient resources. More officers, more prosecutors, more equipment, more custodial facilities, more judicial facilities are needed; law enforcement in this district is hindered not by a failure to communicate or ineffective training, but by the limited resources available to fight increasingly more complex, violent and pervasive criminal activity.

## INTERAGENCY COOPERATION

The level of cooperation among federal, State and local law enforcement agencies is outstanding throughout Western Washington. There are at least 13 multi-agency drug task forces operating in areas that encompass all major metropolitan areas as well as outlying counties. An active Fugitive Task Force has been responsible for apprehending a number of State and federal fugitives. Organizations such as the Law Enforcement Coordinating Committee, the Washington Association of Sheriffs and Police Chiefs, the Law Enforcement Executive Forum, the Peace Arch Law Enforcement Council, the Oregon-Washington Law Association, and the Washington Association of Prosecuting Attorneys maintain a high level of communication among its member agencies. While there have been a few incidents of communication breakdown between federal and local agencies over the years, these have been case-specific and not indicative of an intentional attempt on the part of federal agencies to withhold information from local agencies. Every federal agency is committed to maintaining open lines of communication and has made it a priority to share information with local agencies whenever possible. At the international level, federal and provincial agencies from British Columbia, Canada, provide excellent support for law enforcement agencies in Western Washington, particularly on cases involving drug importation and other border issues.

## SURVEYS, PLANS OF ACTION, AND DATA COLLECTION

Many organizations are working to develop comprehensive plans of action in response to specific areas of criminal activity or to specific geographic boundaries.

The 1993 Annual Crime Report of the Washington Association of Sheriffs and Police Chiefs will be issued not later than June 1994. The report is used as a resource for legislative action and funding proposals for local law enforcement agencies, as well as for developing staffing, training and enforcement priorities.

The Violent Crime Working Group (VCWG), comprised of federal, State and local law enforcement agency representatives, was formed by the U.S. Attorney in March 1994 to develop a comprehensive survey of violent crime in Western Washington. Once the VCWG completes the survey, which is due April 18, they will develop and implement a plan of action.

The Regional Law, Safety and Justice Committee of King County is responsible for developing a local law and justice plan. State law requires the plan to: (a) seek means to maximize local resources including personnel and facilities; (b) reduce duplication of services; (c) share resources between local and State governments in order to accomplish local efficiencies without diminishing effectiveness; and (d) manage the jail population.

Computerized data renewal systems have been created to assist with violent crime enforcement. The Washington State Homicide Investigation and Tracking System (HITS) is a computerized investigation program available to all law enforcement

agencies in the district. HITS compiles all that is known in its participating jurisdictions about serious crimes—rape, murder and gang-related crime—into integrated data bases that are rapidly expanding beyond Washington State to include California, Oregon and Canada. The results are offender profiles and the ability to search a large database for related information.

#### DISTRICT-WIDE PHILOSOPHY OF VIOLENT CRIME ENFORCEMENT

It is acknowledged and understood throughout the law enforcement community in Western Washington that the primary responsibility for responding to violent crime rests with local agencies, and the most effective use of federal resources is to support local law enforcement agencies in their efforts rather than impose federal programs or priorities which may not be applicable. Local and federal agencies expressed concern with the trend to "federalize" crimes which historically fall within the jurisdiction of local law enforcement agencies. This is especially problematic when there is no consequent increase in funding for additional federal agents and prosecutors. When newly federalized crime statutes are trumpeted as comprehensive solutions, local agencies and governments frequently jump to the unrealistic conclusion that a great number of their cases will be handled federally and will alleviate their overwhelming manpower and budget constraints. Yet local officers and prosecutors outnumber their federal counterparts ten to one, and with so many areas of the law under sole federal jurisdiction, there are few federal agent and prosecutor hours to spare for responding to traditionally local street violence. Federal agents and prosecutors have the resources and experience to handle extremely complex white collar crime and other fraud cases, areas where local agencies cannot expend the resources necessary to successfully combat these crimes. At a law enforcement meeting with the U.S. Attorney on March 8, 1994, Pierce County Prosecutor John Ladenburg spoke for many when he said, "We need to use federal [law enforcement agency] resources such as wiretaps and other investigative techniques to catch the smart criminals and not overemphasize violent crime when the locals should remain primarily responsible."

#### VIOLENT CRIME TRENDS

##### *General Overview*

In Washington State, the incidence of violent crime has increased approximately two percent each year for the last five years. There were more than 93,000 incidents of violent crime in 1992. There were increases in the number of aggravated assaults (59 percent of cases), robberies (26 percent), rapes (13 percent), and murders (1 percent). These percentages have been consistent for the last four years. More than 80 percent of violent crime occurs along the Interstate-5 corridor between Everett to the North and Olympia to the South. This encompasses the greater Puget Sound area, which includes the three largest cities in Western Washington (Seattle, Tacoma and Bellevue).

While the perception of the community and the media is that violent crime has increased precipitously, statistical data reflects a steady, chronic increase directly related to population increases. The exception to this finding is the sharp increase in youth gang-related violence.

##### *Youth Gang-Related Violence*

What was once a problem associated only with Seattle and Tacoma is now more widespread as increasing numbers of youth are participating in gangs and the gang culture is popularized in the media. There were as many youth gang-related homicides in 1992 (17) as in the previous five years combined. Based on anecdotal information and a review of media reports, it is expected that figures for 1993 and early 1994 will show a continuing rise in gang-related homicides. Gang activity is seen in areas outside the Greater Puget Sound area, including Grays Harbor County, Kitsap County, Clark County, and Whatcom County. In King County alone, 83 gangs have been identified, and it is believed that the members of 12 of these gangs are responsible for more than 50 percent of youth gang-related violence. The number of gang-related incidents in King County nearly doubled from fourth quarter 1992 to fourth quarter 1993. The number of gang-related drive-by shootings increased by 50 percent in the same period. Gangs are increasingly multi-ethnic, and while the majority originate in this area, there is still an influx of gang members from California.

Most law enforcement agencies are responding to increases in gang-related violence by developing gang units comprised of gang intervention specialists, community police team officers, and other officers trained in working with gang members. Information sharing is a critical part of the response to gang-related violence in this

district, and information about California-based gang activity is utilized to forecast youth gang violence. Other multi-agency programs are designed to identify youth at risk for participation in gangs and drugs. Comprehensive programs to combat youth gang violence focus on prevention, intervention and suppression, and are developed in cooperation with community groups, schools and social service agencies.

Federal laws which severely restrict prosecution and incarceration of juveniles make it difficult for federal agencies to provide significant enforcement assistance to local agencies as they battle youth gang violence; however, millions of dollars in Department of Justice Office of Juvenile Justice and Delinquency Prevention grant funds are awarded to Washington State agencies each year for programs which have direct impact on juvenile victims and offenders. On April 25 and 26, 1994, Justice Department grants will fund a two-day, Statewide training program for as many as 1,500 service providers, law enforcement officers, judges, medical professionals and victim advocates on the subject of children's justice.

#### *Asian Organized Crime*

Seattle Police Chief Norm Stamper reports that Asian organized crime is increasing in Seattle and in every other major metropolitan area along the West Coast. The nature and incidence of Asian organized crime is expected to increase in the next few years as gangs from Hong Kong relocate their operations to the United States.

The local law enforcement community identified this area as a concern more than ten years ago and were instrumental in establishing a network of international law enforcement agency contacts. At the federal level, this District is working with other West Coast districts to coordinate the federal response in this area, and federal agencies are co-sponsoring the 16th Annual Asian Organized Crime Conference to be held in San Francisco, California on May 8-13, 1994.

#### *Crime on Tribal Land*

A special problem in Western Washington concerns crimes which occur on the 22 tribal reservations within the District. As a result of the passage of Public Law 280 in 1953, and the way the State of Washington implemented the power to assume jurisdiction, the jurisdiction in Indian Country is inconsistent and confusing. Tribal courts have criminal jurisdiction over tribal members (or anyone who is an "Indian") limited to misdemeanor offenses. The State took criminal jurisdiction over (1) the operation of motor vehicles on public roads and highways; (2) juvenile delinquency; (3) fee patent lands on reservations; (4) all crimes committed by non-Indians in Indian Country; and (4) all Indian lands outside the borders of established Indian reservations. Then the State allowed individual tribes to petition for full State jurisdiction over "Indians when on their tribal or allotted lands within an established Indian reservation." Five tribes fall under this rule. Fourteen other tribes did not petition for State jurisdiction, so federal court has jurisdiction over "Indians when on their tribal or allotted lands \* \* \*." Four new reservations created after 1968 are under full federal jurisdiction. One other tribe, the Stillaguamish, is expected to be recognized as a reservation and will fall under federal jurisdiction.

Most of the violent crime cases prosecuted by the U.S. Attorney's Office, particularly violence against children, are committed on reservation land. The FBI, responsible for federal investigations on tribal lands, has worked closely with tribal law enforcement agencies in the last year to respond better to requests for assistance. Unfortunately, there are not enough FBI agents available to respond quickly in every case, and there are few agencies and facilities near reservations to serve as shelters for victims. The U.S. Attorney's Office has taken the lead to develop Multi-Disciplinary Teams to respond to child victims of violent crime on reservations.

#### *Guns*

Local agencies have identified an increase in the firepower of guns seized from criminals in the last two years. The federal Triggerlock program was widely utilized to handle violent offenders at the federal level. The working relationship between the Bureau of Alcohol, Tobacco and Firearms (ATF), other federal agencies, and State and local law enforcement agencies has been strengthened and cases being prosecuted federally reflect this close collaboration. Despite a reduction in overall manpower, ATF achieved a productivity rate per agent in these types of cases double the national average and is presently restructuring its coverage of the Western District to respond even more effectively. Joint screening of gun cases by the Tacoma Violent Crimes Task Force results in federal prosecution of serious repeat offenders carrying guns.

#### *Drugs and Violence*

The 13 drug task forces operating in Western Washington and funded by Byrne Memorial Grants have been successful in targeting large-scale, violent drug dealers

involved in cocaine, heroin and marijuana distribution. Drug Enforcement Administration and Federal Bureau of Investigation agents are regular participants in many of these task forces and offer assistance to local agencies upon request. In large metropolitan areas, most cases are handled at the local level with federal prosecution reserved for multi-defendant, interstate drug operations involving large amounts of drugs. DEA has committed investigative resources to the highest levels of the traffic with priority emphasis by drug to be formulated on a localized basis at the Seattle Office. DEA's first priority is high-level trafficking in cocaine which has a tremendous potential for violence as well as corruption of law enforcement officers and public officials. The Seattle Division will continue to place heavy emphasis on undercover drug investigations.

Several joint investigations have been initiated between DEA, the Washington State Patrol, Seattle Police Department, and the King County Department of Public Safety. These investigations involve prosecutors at the earliest stages who assist in preparation of subpoenas, search warrants, court orders, and who are available to answer legal questions as the investigation unfolds. This technique also permits early case evaluation by prosecutors to determine whether the case should be handled locally or in federal court. In addition to this task force, many other county-wide or regional drug task forces operate successfully within the District.

Indoor marijuana grow operations and clandestine methamphetamine laboratories are a continuing problem in rural areas of the District. With the assistance of night vision and other equipment provided by federal agencies, local officers have developed efficient means of investigating these cases.

Another recent trend identified by local law enforcement agencies is an increased experimentation with heroin, LSD and other hallucinogens by high school-age adolescents, possibly in response to the popularity of these drugs within Seattle's burgeoning alternative music industry.

Chief Raymond Fjetland of the Tacoma Police Department says, "There's no inner-city drug culture like the ones seen in most Eastern cities. Eighty percent of drug users go to work every day." Of note is information derived from reverse sting operations recently conducted in the Weed and Seed area: the majority of drug customers arrested were from outside the neighborhood and were purchasing drugs during their morning and evening commutes.

#### EASTERN DISTRICT OF WASHINGTON

In the Eastern District of Washington, drug trafficking and the violence that accompanies it, including gang activity, is identified by law enforcement officials as the most critical violent crime problem. Much concern is expressed over the continually increasing number of juveniles involved in these activities and the limitations on the ability of the federal government to address that problem from a law enforcement standpoint.

The problem of illegal activity by Mexican illegal aliens, which primarily includes cocaine and heroin trafficking and the attendant violence, is more concentrated in the Yakima valley area, but is present throughout the District. Even those illegal aliens who are not involved with large scale trafficking or violence are serving to overload local jails on relatively minor drug possession charges. Some counties have suggested that they purchase buses to return illegal aliens to Mexico rather than incarcerate them if INS personnel would see to the return of those prisoners. INS is keenly aware of the problem but unable to address it because of the sheer numbers of illegal aliens and lack of resources. Obviously Border Patrol agents, who are responsible for the international border between the United States and Canada, cannot effectively guard the continental borders of the state and thus have no control over the numbers of illegal aliens entering the District.

INS officials report that the jail population in the Yakima valley is approximately 50 percent alien, approximately half of illegal. Cocaine and black tar heroin are the most prevalent drugs trafficked by aliens who smuggle illegal aliens into the country using them as couriers to bring the drugs with them. Additionally, the Eastern District of Washington is a source area for the production of marijuana which is exported throughout North America. INS reports that the alien crime situation in the Yakima valley is growing at an alarming rate. This problem is compounded by increasing involvement in criminal activity by juvenile aliens. INS does not have the capability to deal with these juveniles because of their status as juveniles and consequently is not in a position to help local law enforcement to any significant degree in combatting violent juvenile crime. There are presently seven INS agents stationed in the Yakima valley area which, according to INS estimates, falls at least

four agents short of being enough manpower to do a more effective job. The Border Patrol has four agents handling the Yakima valley as well as additional territory.

The Yakima valley has not experienced a great influx of crack cocaine because traditionally the crack cocaine is distributed by black gang members out of California and the Yakima valley has a very small black population. INS also points to the Washington State Department of Health and Social Services as contributing to the alien problem by offering assistance to those aliens whom the State knows are illegally in the country.

DEA presence in the Yakima valley includes four agents, with one scheduled for transfer in the next 30 days. Due to cutbacks in the DEA budget, it is unknown at this time whether the agent who is leaving will be replaced. The United States Attorney's Office also works with several local and state drug task forces, having no DEA representation, which receive federal funds. Without exception, all local and state agencies are very insistent that if federal funding for these task forces is cut, it will have severe consequences on their ability to effectively deal with drug trafficking. Many drug and gun cases in both Spokane and Yakima are prosecuted federally even though no federal agents participated in the investigation or their participation was minimal. Our experience with virtually all local and state task forces has been extremely good.

ATF has four agents handling the Yakima valley and other additional areas.

The FBI has three agents in Yakima, one in Richland and seven in Spokane. Two of the Spokane agents are assigned to drug cases.

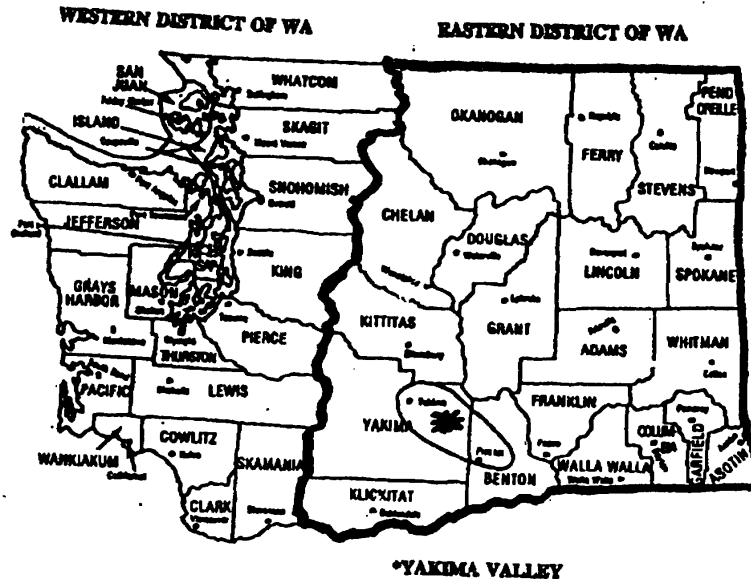
The U.S. Attorney's Office in Spokane has 13 Assistant U.S. Attorneys. Yakima has 3 AUSA's at this time and is in the process of replacing one who has just retired.

Yakima has one Federal Judge and one Magistrate Judge. Spokane has three Federal Judges and one Magistrate Judge.

In the northern part of the District, crack cocaine and gangs, with their attendant violence, are the focus of the law enforcement community. Current law enforcement efforts are aimed at federal, state and local cooperation in combatting this problem. A greater sharing of information appears to be an immediate and less expensive first step.

As for the Southern part of the District, the problem is the same, but is expanding rapidly with cocaine trafficking by legal and illegal aliens with increased violence and use of firearms.

The District's focus in implementing the anti-violent crime initiative is increased cooperation with local and state law enforcement in a concerted effort to address the critical crimes affecting the various communities throughout the District.



[ATTACHMENT A]

## ATTACHMENT B.—TRIGGERLOCK INDICTMENTS 1993

	Spokane	Yakima
18:844(i) .....		2
18:922 .....		1
18:922(a)(6) .....		1
18:922(d)(1) .....		1
18:922(g) .....	9	1
18:922(g)(1) .....	16	23
18:922(g)(5) .....	2	2
18:922(g)(6) .....	1	
18:922(j) .....		1
18:922(n) .....	1	
18:924 .....	1	
18:924(c) .....	6	5
18:924(c)(1) .....	5	
18:924(e) .....	2	
18:924(e)(1) .....		2
18:924(h) .....		1
18:1153 .....		1
18:2111 .....		1
18:2113(a) .....	1	
18:2119 .....	2	
18:3583(e) .....	4	
21:841(a)(1) .....	10	7
21:846 .....	1	2
21:853 .....	1	2
21:856(a)(1) .....		1
21:860 .....		1

## ATTACHMENT B.—TRIGGERLOCK INDICTMENTS 1993—Continued

	Spokane	Yakima
21:952 .....	1	.....
21:963 .....	1	.....
26:5841 .....	.....	1
26:5861 .....	.....	1
26:5861(d) .....	2	17
26:5861(f) .....	.....	3
28:5861(i) .....	.....	2
26:5871 .....	1	.....

## ATTACHMENT C.—CRIMINAL CASES CLOSED BETWEEN APRIL 1, 1993 AND MARCH 30, 1994 BY DEFENDENT

AUSA	Spokane											Yakima					Grand total				
	CDG	EAH	FAW	JBC	JHH	JPC	JRS	PJB	RHT	RWS	SU	TIO	TOR	WHB	Total	DEK		GMS	RAE	RSL	Total
Marijuana	5				6			3			3		9		26	1	5			6	32
Narcotics	6									6	10	7	4		33	7	2	5		14	47
Firearms										1					1						1
Triggerlock	2			1	3		1	1	4	4	3	4	5		28	13	2	8	8	31	59
Immigration	2		1	11	4			70	2		1			1	92	2	1	17	12	32	124
Program fraud																		11		11	11
Tax fraud																					
Bank fraud and embezzlement																					6
Bankruptcy fraud							4								6						
Other fraud													3		9		2			2	11
Counterfeiting			3	3																	
Toxic waste																		2		2	2
Intermediate theft																					
Checks/postal																					
Bank robbery					1									1	2				2	2	4
Assaulted crimes																					
Motor vehicle theft																					
Theft of Government property	3			1											4				1	1	5
Other (program category 090)	5			3	3		1	19	1	3	3	3	4		45	6		4	8	18	63
Other				9			6						2		17			4	6	10	27
Appeals	1	1			2		2	2		4	4	6	3		25	8	8	9	2	27	52
Subtotal	24	5	28	19			14	95	7	18	24	20	32	2	288	37	20	60	39	156	443
Fugitives			1	1	1			1			1				5	7	3	17	3	30	43
Pretrial division	2			7					2			1	2		14	2	3	4	13	22	36
Investigations (matters)		2	27	12	6	1	13	19	17	21	14	11	10		153	7	5	28	8	48	201
Total	2	26	33	48	26	1	27	115	26	39	39	32	44	2	460	53	31	109	63	256	715

## ATTACHMENT D.—PENDING CRIMINAL CASES BY DEFENDENT

AUSA	Spokane												Yakima				Grand total				
	CDG	EAH	FAW	JBC	JHH	JPC	JRS	PJB	RHT	RWS	SU	TJO	TOR	WHB	Total	DEK		GMS	RAE	RSL	Total
Marijuana	1			1						2	3	1	6	13	27	8	4	15	28	55	82
Narcotics	4	3			6						5	2	5	1	26	4	6		10	20	46
Firearms																					
Triggerlock	4				7	1			4	6	2	2	2	2	28	13	6	7		26	54
Immigration																					
Program fraud		2	14	1				7	1						25	3	1	1		5	30
Tax fraud																	2	2		4	4
Bank fraud and embezzlement		1												2	3			2		2	5
Bankruptcy fraud					1				2						3	3		5		5	8
Other fraud		1						2							3					3	3
Counterfeiting											1				1					1	1
Toxic waste																		4		4	4
Intermediate theft						1															1
Checks/postal			1							1	1				3					3	3
Bank robbery					1									1	2		1		1	2	4
Assaulted crimes																					
Motor vehicle theft																					
Theft of Government property		2	1	3	3					2	2			2	15	1		1		2	17
Other (program category 090)		3			1	11						1	2		18	1		4		5	23
Other																					
Appeals		10	3	1	8		2		2	10	10	7	10		63	5	3	4		12	75
Subtotal		24	12	19	29	12	2	9	11	27	19	21	19	14	218	35	23	45		142	360
Fugitives		12	3	15	4			1	2	6	5			2	51		1			1	52
Pretrial division			3	4			2	1		1	2				13	2	2	19		23	36
Investigations (matters)		35	13	7	8	1	4	9	6	28	3	10	21		145	7	9	25		41	186
Total		71	31	45	41	13	8	20	19	62	29	31	42	14	427	44	35	89		207	634

## CHILD PORNOGRAPHY

Senator McCONNELL. One other area I wanted to touch on, and that is the area of child pornography. There was some concern on my part and others that the Department seemed to be in something of a retreat in the fight against child pornography.

The Solicitor General's reformulation last year of the Child Protection Act was, in fact, the subject of a vote here in the Senate, and we rejected I am told by unanimous vote, and a majority of the House also rejected, what was described as a reformulation of the Department's position.

I understand that the White House sent a letter over to you actually on November 10 last year supporting the Senate resolution. Obviously, there was some disconnect, I gather, there between the White House and the Department maybe on the whole approach to the Child Protection Act, and I am wondering if that has now been worked out and if there is some consistent view or position here.

Ms. RENO. I think there is a very consistent position. There has been no retreat whatsoever in terms of our commitment to vigorous enforcement of the laws against child pornography. I think there has been some disagreement with respect to how that can best be carried out, and we are trying to work with all concerned.

The specific case in question is now pending, and we are working with all concerned to make sure that it is clear. Our commitment is as vigorous and as strong as ever.

Senator McCONNELL. So it is your view you have not retreated in that area at all?

Ms. RENO. Senator, I spent too many years as a prosecutor in Dade County trying to stand up to that issue, and I will never, ever retreat on the issue of child pornography.

## TELEVISION VIOLENCE

Senator McCONNELL. Well, all of these issues that bump up against the first amendment, even though the court has held that child pornography is not protected speech, are tough issues, and you have been rather outspoken about television violence, once again another issue that arguably bumps up against the first amendment.

I am increasingly, the older I get, almost a purist when it comes to the first amendment. That position kind of evolved in my dealing with another issue that is not our subject here this morning, campaign finance reform, which also bumps up against the first amendment.

In this whole area of television violence, General Reno, what do you advocate? What can be done? Is it mainly a question of preaching to the industry and hoping they will voluntarily cut back on it? Where are we on that issue, and what do you think ought to be done?

Ms. RENO. Since I sat in this chair last, I have obviously had occasion to continue to deal with the issue.

As I made clear that day—and I do not have the specific language before me right now—our Office of Legal Counsel had concluded that the bills that were before the committee that day were constitutional. But, I made clear to this committee that I would

much prefer the television, the network industry, the video industry, to take voluntary action themselves, and I think they are making progress in that effort.

I am not totally satisfied with their progress, but one of the important efforts that I have had a chance to review is what happened in Canada, where the Canadian equivalent of the FCC, working with the industry, has been able through voluntary efforts to achieve a code. We will continue to work with the industry in every way possible.

I at the same time pointed out that the industry can be one of the great educators for good in the United States, and I think they are understanding that more and more each day. The very touching public service announcements that were aired the other day are an example of what can happen when the industry is willing to make a commitment.

Senator MCCONNELL. May I just interrupt and ask you a question? Do you find that they are conceding the point, or are they still arguing the point? Do more and more of the people in that industry that you have discussed this issue with concede the point that—or concede the argument that maybe this depiction of violence with such great repetition does have an impact, or are they still sort of disputing the premise?

Ms. RENO. Some more willingly than others, but the basic argument—and I understand their basic argument—comes again to the first amendment and to the chilling effect—they do not want Janet Reno telling them how to program, and Janet Reno does not want to tell them how to program.

I do not know anything about TV, but I do know that it can be a remarkable medium. What I sense from the industry in my conversations with them since our hearing is that they, like so many people in America, understand that we have got to focus on family and children, and give our children a chance to grow up in a strong, safe, positive way.

I think more and more people realize that television can be one of the greatest tools for good we could imagine, and if we can focus all of that wonderful resource in the right direction voluntarily, we are going to be a lot further down the road.

Senator MCCONNELL. Well, let me ask you in conclusion, then, is that your prediction, that you are going to get rather widespread cooperation from that industry? Is that what you think is evolving here?

Ms. RENO. I would not characterize it as widespread, but I think we have made progress, and I think we are going to make far more progress.

Senator MCCONNELL. Thank you very much.

Senator HOLLINGS. Thank you. Senator Bumpers.

Senator BUMPERS. Thank you, Mr. Chairman, and welcome, General Reno, to the committee.

Just to show you how brilliant Senator Hollings is, my staff tells me he has asked almost every question I intended to ask.

Senator HOLLINGS. Thank you, Senator. [Laughter.]

## SENTENCING GUIDELINES

Senator BUMPERS. There are just three or four items that I would like to get more of an opinion on than anything else:

Virtually every Federal judge I have talked to intensely dislikes the sentencing guidelines. Now, I voted for those when they were brought before Congress, and at the time I thought they would go a long way toward equalizing justice for all. Do you get those complaints, and what is your own feeling about the sentencing guidelines?

Now, we are not talking about minimum sentences, we are talking about the sentencing guidelines.

Ms. RENO. I have not received too many complaints against the sentencing guidelines because frankly, Senator, the conclusion is that they are here to stay. What I have heard is, "What can we do to achieve what the Senate and House wanted, which was some equity and the elimination of unwarranted disparities, while at the same time recognizing that there are in all cases one or two isolated examples that require special treatment?" I think that is what the Sentencing Commission, once we get it fully working again—

Senator BUMPERS. Is that Commission still extant, or is it out of business?

Ms. RENO. It is still very much in business. The President has appointments to be made to it, and we are trying to work with all concerned to do just that, but the Commission has done some really fine work, Senator. They had what I thought was an excellent conference and have published a report on drugs and violence, and they are addressing the issue of youth violence.

They are doing, I think, some really fine work, and I think that they can be an important player in developing a sentencing approach that makes sense, that is not just a reaction, but that focuses on the bad guys and gets them put away, and focuses on alternative programs for those that are coming back to the community.

Senator BUMPERS. Well, it is a very knotty problem, and you know, judges are human beings and capable of mistakes. Some are more common sensical than others, and our desire, of course, to be fair to the rich and the poor and really sentence people according to the severity of the crime or gravity of the crime, and so on, is a very laudable goal, and I heartily applaud that, but there again, as I say, the knotty problem comes in. There are a lot of judges you would like to have more flexibility, and there are some you do not want to give any flexibility to, so it is a very difficult question.

But I am going to do a little study into that and just see where we are on it, because as I say, most of the judges I talk to disliked it intensely and tried to get me to vote against it, my own judges in Arkansas, but I voted for it because I thought that certainly the goal of it was highly laudable.

Ms. RENO. I would encourage us not to throw the baby out with the bathwater. I think the Commission, once it is fully staffed again and everybody is working together trying to come up with the right answer in sentencing, can achieve the best of what Congress was trying to achieve with the sentencing guidelines while at

the same time recognizing that there can be situations which require—

Senator BUMPERS. Have there been any changes made in that since we adopted it—in the sentencing guidelines?

Ms. RENO. I cannot give you the entire history of it, Senator, but since I have taken office, no. But my understanding is that there have been increases generally in the guidelines since it was enacted, and we will provide you with a full history of it.

Senator BUMPERS. I would like that very much.

[The information follows:]

#### HISTORY OF CHANGES IN SENTENCING GUIDELINES

The United States Sentencing Commission has produced two documents, "Guidelines Manual" and "Guidelines Manual, Appendix C", which contain all amendments through November 1, 1993. Both documents are too cumbersome for inclusion in the transcript, but have been provided to the Subcommittee.

Senator BUMPERS. I just want to echo one thing that I know Senator Hollings has already mentioned, and that is, you know, all of these people that get awfully hairy chested when the crime bill comes up around here, and we, I think, have had—we had 47 death penalty provisions in our bill. The House has 66.

We are really effectively taking away an awful lot of jurisdictions from the States and absorbing, if that thing—if either one of those bills become law in their present state, there is not enough money in this country to hire all the Federal judges and build all the courthouses that we are going to have to have to take care of all the crimes.

For example, if using a firearm becomes a Federal crime, you are almost effectively taking the States out of the crime enforcement business. I know you have already talked about that, but I just want to echo my concerns, which I know Senator Hollings has already talked about.

#### WIRETAPS

One final issue that I am mildly concerned about, because all of my adult life, and particularly when I was a lawyer, practicing attorney, I have always been extremely—what shall I say, wary of wiretaps. During Watergate wiretaps, everybody was tapping everybody. I tried one time here, General, to pass a bill to make it a crime for somebody to tape a telephone conversation. Did you know the law is now, if I gave you a call in your office, I could tape that conversation and it would be quite legal, even though you did not know I was taping it?

I must say, I have always considered that an absolute travesty that the law is that way, but the law enforcement people say that you are taking away a tremendous prerogative of theirs if you do that.

But now we have wiretap coming up again, and I saw where the Director of the FBI said the other day that he thought present plans were—and I am not sure what the status of this is. Apparently it is not in the telecommunications bill, Senator, and it is not in the crime bill.

Senator HOLLINGS. It was asked to be put in by Judge Freeh into the crime bill, and I think it will be on the House side, so we are both looking for it.

Senator BUMPERS. I wish we had had a chance to debate that. If the House is going to put it in and go to conference we will never get a chance to really examine that as closely as I would like to.

Now, I have no quarrel whatsoever with legitimate wiretaps, and under court order, but I tell you, most of the time you give people sort of an unlimited use of wiretaps and you usually regret it. As I say, I just think it is a travesty in this country that people can tape a conversation with anybody they want to and not tell the other party.

So I just want you to know that—I understand the new technology is difficult for the FBI. It is difficult for all law enforcement officers, and as I understand it, what they want is for the technology to be such that they can tap lines, that none of these lines are going to be tap-proof. Am I correct in that?

Ms. RENO. That is a very good summary of it, but right now a telephone is not tap-proof.

Senator BUMPERS. A telephone is not?

Ms. RENO. You can tap it. That does not mean that we should not tap it if we follow clearly prescribed steps.

I come from a State where it is unlawful to record a conversation. You have to ask.

Senator BUMPERS. Well, bully for Florida.

Ms. RENO. I come from a State where I have approved wiretap applications for the last 15 years after having the same—the very same—reservations as you, as I was growing up, about wiretaps.

I follow those procedures. In one instance I had it reversed very early on in my administration as State attorney. I was upset about it, because this has been something that has been of such concern to me, and I want to make sure it is done right.

What has happened is that the technology is changing, and what we want to do is not change the law, not change the protection, not change the privacy interest, but design the law so that it meets the new technology without sacrificing the safeguards. Director Freeh and I would be happy to visit with you and talk with you, because this is of real concern.

I think one of the most challenging issues that we will face in law enforcement as we move into the next century is the tremendous change in technology. I mean, we are going to look back on law enforcement as I knew it and think, wow, we handled all those things just with a gun and not too much more? You are going to see technology that will constantly be a challenge to us so that we do not let the bad guys outwit us.

Senator BUMPERS. Well, General, I take it from that impassioned statement that you share my concerns. I am not trying to stop law enforcement officers from the legitimate use of wiretaps, especially in drug cases. But, as I say, I always have this apprehension that things are going to get out of hand if we do not keep an eye on them. And I suspect you are going to.

Ms. RENO. I am going to keep a sharp eye on them, but I think it is terribly important. And I think in the proposals that are being

made now, we do just that. We meet the new technology without sacrificing any constitutional protections.

Senator BUMPERS. Thank you very much, General.

Thank you, Mr. Chairman.

Senator HOLLINGS. Thank you very much, Senator.

Senator Lautenberg, if you would just yield for a minute, because the subject matter is not really relative to the actual budget request, but they are of powerful interest to the committee. And I understand when we have the Attorney General here we all want to get into these different subjects.

On the wiretap, General Reno, you have described it properly, it is an advance in technology that came up actually 3 years ago. You can imagine if you were a lawyer for AT&T or Bell South, you'd say wait a minute, before you start doing that, we do not want to be sued on a privacy thing and everything else. So, we all went back to the drawing boards and everything else.

And I think the arrangement working now is super careful with respect to the privacy rights. And all of these judges have to review the application and what have you. They are not just willy-nilly or indiscriminately doing it. They are very, very careful before they actually go into this. And the cost of it and everything else is a significant amount. But I think we can talk about it and work that out.

#### TV VIOLENCE

With respect to the matter of TV violence, General, at the time of your testimony—40-some years earlier Kefauver had hearings on it, and then John Pastore had hearings on it—and I have just sought the name because I wondered what had happened to Van Gordon Sauter, a distinguished vice president of CBS. It so happens that Kathleen Brown, who is out in California running for Governor is married to this gentleman. This gentleman appeared in this room as the vice president of CBS, and assured us, back in 1977—17 years ago.

We had boxes around here and we had all kinds of things. The authors of the particular scripts told us how they took the four-letter words out of the script, how they took this violent scene out, how they were voluntarily, 17 years ago, doing this. And then, of course, their own document, "TV Guide" came out and said violence in TV was on a tremendous increase just last year.

So, we have tried and tried and tried, year in and year out, and that old money takes over. Rather than acceding the point, they are still arguing the point. And we hope to follow up with another hearing perhaps, and a markup on that bill to protect, as you are interested in and I am interested in, the children, who we constitutionally can protect.

#### TORT REFORM

The third subject that came up was the matter of tort reform. We have not had a full discussion at all relative to malpractice in the medical or health care bill—and there will be. But I do not want, just unguided, to get into product liability, which we have withheld now for 14 years. We know from hard experience up until maybe the breast implant settlement here with Dow, they say in the news

about \$4 billion, but until that one, we had a verdict on contract fraud by Penzoil and Texaco down in Texas of \$12 billion, which exceeded all product liability verdicts that we have ever had.

In essence, product liability is working. I have talked to Republican judge friends of mine, the Democratic judges and everything else. It is working at the State level. I do not know where they ever got the idea that the Congress of the United States would be more conservative or careful than the legislatures back in Florida or back in South Carolina. And I am telling you right now, they are opening up a Pandora's box if they want to federalize it. But there again we are back to the original point about the federalization of crimes. Now, we are going to federalize the civil side.

And the States have got every right to reform. Your State of Florida put in product liability reform and the insurance rates went up, not down. And we can go into those particular hearings. We have had 14 years of hearings before the Commerce Committee. So, I just want you to have that background when there is a comment.

We have been into this for a long time, whether it is TV violence, product liability reform, and, more particularly, with respect to the rights of privacy on wiretap.

Senator Lautenberg.

#### USE OF LAW ENFORCEMENT RADIO FREQUENCY

Senator BUMPERS. Senator Lautenberg, excuse me. Would you allow me to ask one question?

I just wanted to ask General Reno one additional question. Are you familiar with the FCC regulation that gives law enforcement and safety about 5 years to vacate this channel? I do not know what band it is, but Senator Hollings and I worked diligently a couple of years ago—when was that, Fritz, 2 or 3 years ago, to try to protect law enforcement and safety?

Senator HOLLINGS. Yes.

Senator BUMPERS. And now they have, by rule, said that these people just have 5 years to get off. That is the way I understand it. And the people in my State, the State police department tells me they spent about \$30 million to \$35 million building a system that they thought was going to be good for a very long time. And it is my understanding that if they get kicked off, it is going to cost them a fortune to redo their system.

Are you familiar with all of this, General?

Ms. RENO. No; I am not. Would you like me to look into that?

Senator BUMPERS. I am not sure you are the right person to ask, frankly.

Ms. RENO. Well, let me review it and see.

Senator BUMPERS. Well, it deals with law enforcement, so that is the reason I decided to go ahead and broach the subject.

Senator HOLLINGS. She is the one person in the administration you can get a straight answer from.

Senator BUMPERS. Yes. [Laughter.]

Well, one woman who can shoot pool out in Chicago is going to get elected Governor because she shoots straight.

Ms. RENO. Senator, let me check and see, and if I am not the person to answer it, I will try to find the person and make sure we get a response to you.  
[The information follows:]

#### FEDERAL COMMUNICATION COMMISSION PUBLIC SAFETY REGULATION

The FCC issued a First Report and Order, FCC 92-437, on October 16, 1992, which provided for the redevelopment of 220 Megahertz (MHz) of spectrum in the 1.85 to 2.20 Gigahertz (GHz) band for future communications services that employ emerging technologies, primary Personnel Communication Systems (PCS). The Third Report and Order, FCC 93-351, dated August 13, 1993, permitted existing public safety facilities to remain in the 1.85-2.20 GHz band indefinitely, provided that the majority of communications carried on these facilities are directly used for policies, fire, or emergency medical services operations involving safety of life and property. In March 1994, however, the three FCC commissioners voted 3-0 to move all existing microwave users, including public safety, from the 2 GHz band. The emerging technology licensees are required to pay for all costs in finding the frequency incumbents new spectrum, including engineering, equipment, etc. The FCC's ruling allowed public safety operators extra leeway for transition because of its need to have temporary solutions—most emergency networks cannot afford any downtime as they move to new channels. The FCC established rules to allow a five-year relocation plan for public safety channels. In the plan, four years will be for voluntary negotiation between new and old users, and the fifth year will be for mandatory relocation to bands above 3 GHz. The Arkansas State Police use the 1.85-2.20 GHz band as a backbone microwave system for their 800 MHz trunked land mobile system; therefore, relocation to higher frequency bands will be required.

Many existing Government, State and local land mobile radio systems will also require replacement within the next ten years. To make more efficient use of the land mobile frequency bands, the FCC and the National Telecommunications and Information Administration have mandated that all new land mobile radio systems installed after January 1, 1995, must operate in a 12.5 Kiloherzt (kHz) channel, versus the existing 25 kHz channel. After January 1, 2005, all equipment must be capable of operating in a 12.5 kHz channel. These requirements will have a significant impact on Federal, State and local law enforcement radio communications systems.

#### PREPARED STATEMENT OF SENATOR LAUTENBERG

Senator BUMPERS. Thank you very much.

Senator HOLLINGS. Senator Lautenberg.

Senator BUMPERS. And thank you, Senator Lautenberg.

Senator LAUTENBERG. Not at all, my distinguished colleague.

Thank you very much, Mr. Chairman.

First, I would like to have unanimous consent to enter the statement that I would have made into the record as if read.

Senator HOLLINGS. It will be included.

[The statement follows:]

#### STATEMENT OF SENATOR FRANK R. LAUTENBERG

Attorney General Reno, welcome.

Let me first congratulate you for your leadership at the Justice Department over the past year. You have earned a reputation for integrity and straight talk, and it's gratifying to have someone of your ability and stature leading the Justice Department.

I also want to express my strong support for the Administration's proposal to increase funding for law enforcement generally, and community policing in particular. The American people are crying out for solutions to our crime problem, and the Administration is responding to their call. I pledge to you that I will do all I can to support your request for additional police officers, and for other important law enforcement initiatives. In fact, I'd like to see if we can find even more money for community policing, and have developed an amendment to the budget resolution that would shift funds from the space station to allow the hiring of an additional 25,000 officers, beyond the 50,000 you proposed in the Administration's budget.

I also want to commend you for your outspoken leadership on the issue of gun violence. As a strong proponent of gun control, it's nice to have an Attorney General who doesn't feel obliged to kowtow to the National Rifle Association. I know you are now in the process of reviewing proposals for licensing of handgun purchasers, and I hope your review will move forward expeditiously. We in New Jersey already have a law that requires handgun purchasers to obtain a permit. It's done a lot of good. And I think it makes sense to take this approach, or a reasonable variation of it, nation-wide.

Let me also raise again with you a proposal I have introduced to attack the problem of interstate gun running. My bill, S. 376, would limit handgun purchases to one per month. This would make it much more difficult for gun runners to buy large quantities of guns in States with weak gun laws, and transfer them to States with stronger laws, such as New Jersey. South Carolina adopted a similar law several years ago, and Virginia recently followed suit. While the South Carolina law has had real success, no State legislation can adequately address the problem so long as gun runners can simply move their operations to other States. We need a federal handgun purchase limit, and I would welcome your support.

In fact, I would note that President Clinton endorsed the concept of a one-gun-per-month law in his Rolling Stone interview. As far as I can tell, however, there has been no follow-up on this matter. I hope we can work together on this.

So, again, welcome to the Subcommittee, and congratulations on your outstanding leadership of the Department. I want to support your efforts, and I look forward to working closely with you to reduce the plague of crime and gun violence that afflicts our nation.

#### GUN CONTROL

Senator LAUTENBERG. Second, I want to commend you, Attorney General, for lots of hard work. And I wonder whether you realized when you took this job how many fronts might open up at the same time. There are many attorneys general who wrestled with far fewer problems and did them less efficiently. So, I commend you.

I am interested in continuing to deal with the gun problem that we have in our society. We have the Brady bill in place. And we hope that it works. And coming from New Jersey, you perhaps know that we were one of the first States to have an assault weapons ban. A legislature that came in of the other party after we had it on the books tried to rescind the ban. It was preposterous. And the people of New Jersey rose up and said no, you are not going to take that away.

The rescission passed one House and was about ready to pass the other when the phone calls started to come in. The Governor went to the public and pleaded for their help.

So, we have to continue to press on. And one of the things that I have tried to do with Senator Simon from Illinois is to make sure that those who are federally licensed gun dealers, in fact, have a serious intent when they apply for that license. And we are proposing raising the fee from the present fee, just recently increased to \$200 for 3 years, to \$600 a year because of the lack of ability to screen these applications, as I am sure you know.

The applications for gun deal licenses went up some 60-plus percent from 1980 to the present day, while the number of agents available at BATF went down about 13 percent. So, just arithmetically, it is pretty obvious that it cannot work. Many of these applications, as I understand it, are hardly getting reviewed.

So, I hope, General Reno, that we will have your support on getting that into place so that we can reduce the number of federally licensed gun dealers out there and make sure that they cannot sell guns out of the trunk of their car or from their kitchen table.

There was one licensed dealer in New York who ordered 500 guns from various manufacturers and got them in shipments of 100 guns a piece through a regular parcel service, and then he, in turn, was the supplier for drug dealers and criminals in New York.

So, we will need your help there, and I hope that we will be able to count on that.

Senator Bumpers mentioned a very good point, and that is the accessibility of prying into telephone conversations. And I have a car phone up in New Jersey, and last month I had a \$1,300 bill for calls to the south Bronx, which is not a neighborhood that I call a lot.

But the availability of information through cellular technology, Mr. Chairman, I mean, you do not even have to know whose phone it is. You can pick up the phone number, you can pick up conversations, you can do anything you want. And I would guess that one of these days, like home videos, which occasionally get to the marketplace, you are going to get some whoppers of conversations that are being recorded on these car phones. And we have car and regular line phones, and the more we seek over-air access the more available that information is going to be. And we are really going to have to watch it from the technological side, Mr. Chairman, which I know you are, as well as the law enforcement side.

Last, I introduced a bill last May to limit handgun purchases to not more than one a month. I do not think that is much of a restriction, but it can make a real difference in reducing interstate gunrunning. South Carolina adopted it, and it has been very successful down there, and cut down on gunrunning from the State. But so long as gunrunners can move to other States with looser gun laws, we will not have solved the problem. That's why we need a Federal handgun purchase limit, General Reno. And I would hope that we can enlist your support.

Ms. RENO. Senator, I want to work with you in every way possible. Let me just check for you and see where the administration is on the handgun limitation and report back to you if I may.

[The information follows:]

LETTER FROM SHEILA F. ANTHONY

MAY 11, 1994.

Honorable FRANK R. LAUTENBERG,  
United States Senate,  
Washington, D.C. 20510.

DEAR SENATOR LAUTENBERG: This is in response to your request of the Attorney General for the Administration's views concerning your bill, the Multiple Handgun Transfer Prohibition Act (S. 376). Thank you for your support and your leadership in the fight to reduce gun violence.

As you know, the Administration is committed to reducing gun violence. At the forefront of our effort is implementation of the Brady Act and our desire to ban semiautomatic assault weapons. In addition, we are currently reviewing proposals, including your bill, that will make our streets, schools and neighborhoods safer.

The Brady Act has already prevented many felons from obtaining handguns. Implementation of this law is coordinated by the Department of Justice and the Bureau of Alcohol, Tobacco and Firearms. In order to implement the permanent provisions of this law, we are working with the states to improve the quality of and access to state criminal history records, and to develop the national instant background check system.

In addition, the Administration seeks a ban on semiautomatic assault weapons, because they have taken a tragic toll on our society, and their devastating effects have touched every community in America. Their firepower have made these guns

the weapons of choice for violent criminals. The Administration has worked with the sponsors of this legislation, as well as other interested Members of the House and Senate, in an effort to obtain swift passage.

Our Administration is committed to tough, effective law enforcement, and we must do all we can to reduce gun violence. We look forward to continuing to work with you to achieve this important goal.

Please do not hesitate to contact me if you have additional questions concerning this or any other matter.

Sincerely,

SHEILA F. ANTHONY,  
*Assistant Attorney General.*

#### EDWARD BYRNE FORMULA GRANT PROGRAM

Senator LAUTENBERG. Thank you very much.

Thank you, Mr. Chairman.

Senator HOLLINGS. Thank you.

Senator Kerrey.

Senator KERREY. General Reno, I assume that you have already heard that there is a lot of enthusiasm in Congress to restore the cuts in the Edward Byrne formula grant program. I just reinforce that. It is one of the most successful grant programs in Nebraska. It allows us to do lots of relatively small programs that would be difficult to do otherwise. And I just reinforce that. I will be working with other colleagues to see if we cannot find a way to restore that funding.

I point out as well that I think in the crime bill, to make community policing work, we should establish some kind of minimum funding level, otherwise, once again, it is going to be difficult for smaller States to take advantage of that.

As you know, we have had a conversation, and I am sure you have discussed this with other Senators, about the difficulty that small communities have in applying for community policing grants that might result in one additional law enforcement officer. And the paperwork that is entailed in just the application can be prohibitive. And these local law enforcement people are telling me that they very often find themselves needing just a few thousand dollars to be able to get out into schools, to be able to get into the community. And it is awfully difficult for them to do that unless we establish, in my judgment, some kind of minimum funding level.

#### INCREASE IN YOUTH VIOLENCE

What I would like to talk to you a little bit about today is youth violence, and just read statistics which I am sure you have heard read before. In Nebraska, from 1982-92, juveniles accounted for a very large portion of the increase, not just in crimes but in violent crimes. And it is causing people to not just be afraid for their lives, but afraid for what is going on with the American family. And I have heard you talk very eloquently about that.

And I must say parenthetically I am very appreciative of the work that the Department of Justice has done to spearhead an intergovernmental effort. Nebraska has been very much involved, subsequent to your visit to our State last year. And I appreciate it very much, because I think it is going to take that kind of intergovernmental approach if we are going to be able to get resources out there in a timely fashion, and particularly, if we are going to be able to do it in a fashion that is accountable to the taxpayers' de-

sire to make sure that we are getting results and not just building new institutions that do not, in fact, get the job done.

But the juvenile felony assault arrests in Nebraska in a 10-year span increased 120 percent. The misdemeanor assault arrests increased 253 percent. The juvenile rape arrests increased 100 percent. Over one-half the crimes now are committed by people under the age of 20. I mean, we have got a very serious problem in that the crimes being perpetrated by individuals today are increasingly 14, 15, 16, and 17 years of age.

I will begin, General Reno, by saying that my own experience is that those things that work the best we seem to have the most difficult time funding. We have been trying to fund a range of family resource centers throughout the State. And it is extremely difficult to get funding to be able to do it. Whereas, all of a sudden, I pick up the Omaha World Herald one day and I see we are building a \$90 million courthouse that I did not even ask money for.

That is the kind of thing that I would cite as an example of why not only I but citizens as well are frustrated. These very small family resource centers, it seems to me, are the very sorts of things that we ought to be trying to fund, and yet it is difficult to get it done.

If I want to get 2 billion dollars' worth of health care money in the State of Nebraska it is relatively easy to do, because I have got a Medicaid and a Medicare program, and we define these health care problems by putting a name on them. And once we put a name on them, then the resources flow relatively easily.

I believe the most important thing for us to try to do is make sure, across the board, that we are providing not only resources but guidance in the education and the training area.

Yesterday, we had Secretary Brown here to testify in front of this committee. And I made the very same point; that not only do we need to forge collaborative partnerships with business to be able to make sure that businesses have a chance to grow, but we have really got to look out there and see that for an awful lot of people today, they simply do not have the skills that would cause them to conclude that there is very much hope in their life.

#### NEW EDUCATION AND TRAINING EFFORTS

And we are getting behind at a very, very early age. In Nebraska right now, for example, there is an effort underway—and they are going to present to me on Saturday the results of that effort—and it is going to require some money, I suspect, both private and public I hope, to pull it off. But it is an education and training effort. And it began as a result of a National Science Foundation called a systemic initiative. And in a follow-on question by me—what are we doing in the inner city Omaha, NE?—the answer was, not much—led to a single fact that I think tells a very important story.

If you are white in the Omaha public school system—and indeed we have discovered that it is more socioeconomic than it is racial—but there is a much higher percentage of poverty amongst African-American students—the white students achieve an 80-percent rate of success with a basic level of mathematics by the eighth grade. For the black students, it is 25 percent. In the fourth grade, it is 20 percent for black students and 75 percent for white students.

And if you go talk with the school teachers and the principals, and they are saying, well, that is obviously what is going on. The kids are coming to school behind in grade. They are starting off slow. And they never really catch up.

Well, the fact is that anybody who graduates today from high school without a basic level of mathematics, which is two plus two equals four, and change for a dollar, it is no great shakes as far as accomplishment, they are going to struggle to earn very much in the workplace.

I mean, there are not very many low-skill, high-paying jobs left any more. I always say that Congress may be the exception to that. But there are not very many places where you can go without a basic level of mathematics and get a job.

And I just think that, across the board, we have got to come with a real urgency to prevent crime. I mean, I am an advocate of giving you more resources so that you can hire more agents. I think it is appalling that we pass all kinds of new mandatory minimums and federalize all these crimes, yet we have not hired an agent since March 1992. I mean, I am appalled that we do not match our actions with our rhetoric when it comes to law enforcement. But I am also appalled that we do not see, in a common sense fashion, that we are just losing kids.

I mean, you can go to any chapter 1 program in the United States of America, you can go into any school in the United States of America, at the kindergarten, first, second, third, and fourth level, and talk to the teachers about what is going on, and you see what the problem is, and you begin to fashion some reasonable solutions to the problem. The difficulty, though, is that very often I do not have the flexibility to be able to respond.

Very often, I do not have the flexibility to be able to build that family resource center to help the mother, to help the father, to help the individuals get the skills that they need. And, very often, I say, General Reno, what we are unwilling to do, and I think increasingly what we have to do, is to say, OK, here is what we want to get done. Here is our benchmark. Here is where we are today with out-of-wedlock births and here is where we want to be 10 years from now. Here is where we are today with mathematics scores and here is where we want to be 10 years from now.

In other words, set some goals for ourselves, as politicians; not just come to you and say we want money or we want some assistance; not just that we want to get something to put out a press release on. But that we define an objective that the community says, OK, we want to go there. And then try to mobilize the community to get there.

#### CRIME PREVENTION TACTICS

I am really terrified when I look at the statistics of violent crime perpetrated by youth. And I am very much concerned because I just do not see the institutional freedom to be able to do what the community, in fact, feels needs to be done.

Ms. RENO. We have a golden opportunity, Senator. The House and the Senate, the administration, we have a chance with two matters that are currently pending before you, to really make a difference in America by bringing a common-sense approach to crime

that does not just react but that tries to fashion something that makes sense. The Senate has passed a crime bill, the House has put a crime bill out of the House Judiciary Committee and is considering it this week. Youth violence is clearly the greatest single crime problem we face in America. But, to create communities where our youth can feel safe, we have got to first make them safe. We have got to focus on the career criminal and get them put away.

As a prosecutor in Miami, I was too often frustrated, as were the citizens in the very communities you talk about, when the guy I got put away for 10 years was back in only 20 to 30 percent of the sentence. I think we should provide assistance to States so that they can house those people for the length of time that judges are sentencing them.

But you have made reference to community policing. I have been to Omaha. I have been now and driven through Iowa. I have seen that beautiful Midwest. I have seen how community policing can make a difference, and how important it is to a rural sheriff or small town police chief to make sure that he or she gets those police officers and that we do not neglect the rural areas of America for the cities. I think we can do both as we design that Community Policing Program.

Where community policing is working, there is no better effort at focusing at youth violence. They get the real ringleader identified and out of the community. But a good community police officer is also pulling the other kids back.

I was in Dorchester, MA, the other day, and here are about five youngsters, maybe—I would say 14 to 17. They were probably headed to trouble and that is what they indicated to me. But there were two police officers there that had become their mentors and were saving a whole bunch of kids. We can make a difference through that community policing initiative.

But the crime bill has got to also address other areas. There are going to be kids that commit crime. There is no excuse for putting a gun up beside somebody's head and hurting them, and a 14-year-old who does that has got to understand he is going to be punished. But the punishment has got to be fair, firm, and fit the crime. And we have all got to understand that that 14-year-old is coming back to the community sooner rather than later.

It makes no sense to put him in a youthful offender facility saying, "You have committed a dangerous crime" and then sending him back to the community where he does not have supervision; where he is the drug dealer's gopher, and where he lives over the open air drug market. We have got to provide after care and community care for him when he comes back, and the crime bill addresses that.

We can make it a smart and tough crime bill. The provision that came out of the House includes the President's YES Program, Youth Employment Skills Program, that focuses on the kids you are talking about. It does not create just make-work jobs but works with others to design school-to-work programs that focus on aptitude and interest and give that kid the knowledge that, if he follows the program, he can graduate with skills that can enable him to earn a living wage.

We can do so much if we do it both in terms of punishment for the bad guys and prevention and after care for those others. But I am now treading into an area that I do not know too much about.

But you talk about goals, and Goals 2000 is right here waiting to address some of the issues you talk about in terms of education. Whether it is family preservation programs that HHS is now expanding to try to focus on what you are talking about, or health care, all of these issues go to reweaving the fabric of society around our children and families, and we can do it if we will just be smart but tough and compassionate, and I think that is clearly what the American people are looking for.

I went to Omaha. You stood, I think, in the same room with me and with youngsters. I asked them, in a detention facility, what could have been done to prevent the problem in the first place? And two things you will recall they talked about, and kids talk about it across this Nation, something to do in the afternoons and the evenings that could have kept me out of trouble and got me into something positive—we can make sure that that is in the crime bill—and somebody to talk to through mentoring programs for these youngsters who have nobody to supervise them, nobody to really care about them. We can make such a significant difference if we just do it smart.

#### INCREASES IN MANDATED PROGRAMS

Senator KERREY. Well, I appreciate that and I do agree with you, and I will insert something that I am increasingly doing editorially as I go through these appropriations hearings, and that is that we are going to have a very tight budget for you and everybody else in Government, and it is very important for the citizens to understand as we talk about law enforcement efforts that at some point it takes money. I mean, we have \$120 billion for the cocaine consumed in the United States of America.

Crack cocaine invaded Omaha just like it did every other community, and sometime in the 1980's—1987 is when the Omaha Police Department tells me that it came in. And life has gotten awful nasty since. And it is tough, it is dangerous, and you are not going to solve that problem without skilled people out there doing the job for you.

You are not going to hire those people unless you are willing to provide the resources to do it, and we are not going to build prisons free and we are not going to get good law enforcement on the cheap and we are not going to get good prevention on the cheap. We are not going to get good efforts to try to build resource centers for American families on the cheap. We just are not going to.

This year we are going to have—almost with no debate—we are going to have a \$30 billion increase in health care spending and a \$20 billion increase in retirement spending. I mean, almost without—no debate, because it is mandated. It will by law be spent because somebody qualifies in some fashion, shape, or another. And I just say that I am increasingly going to beat that drum because that is where the money is going.

And it gets awfully difficult for us to be able to do the right thing. It seems to me unless we tell the American people the truth, that what is driving our entire budget process right now is this sort

of silent increase in the mandated programs that make it virtually impossible for us to make progress on deficit reduction to keep interest rates low and the economy growing.

It makes it almost impossible for us to do that and simultaneously attack crime in a meaningful fashion, provide an environment where our children do have some economic hope, particularly those in lower income categories where skills become just vital if they are going to be able to lift themselves up and out.

And we are going to underfund Pell grants this year. We will still, even with the President's leadership and generosity with Head Start, we are still going to fall short in providing money for Head Start. We are going to have a major battle in chapter 1 in providing a sufficient amount of resources in chapter 1. And it works. I mean, chapter 1 programs absolutely work.

And I get schools throughout the country that are rationing education right now to individuals whose incomes are lower, and you just look at it and you say well, no wonder we have got a crime problem. I mean, I would just say, as I will repeatedly editorially, that I just believe that unless we get our arms around these mandated programs I think it is going to be awfully difficult for us to simultaneously keep the economy growing by making strong and tough deficit reduction choices and simultaneously allocating resources where everybody in America increasingly is saying they want their tax dollars allocated.

Ms. RENO. I think there is some hope, though, because I think if we make a limited investment up front in people and then hold people accountable and say look, we gave you the tools to do the job, now we are going to hold you accountable, we are going to save money in terms of crime, dollars spent for prison, health care problems, down the line. We too often in the past have waited for the crisis to occur.

But just let me make one final point that goes back to an original concern that you had. It does cost money. And I worry about some of the smaller States, concerned that they do not get their fair share. Under the provision in the Senate-passed crime bill on the community policing you provided for a minimum set-aside per State which would equal six-tenths of 1 percent of the total program, or about \$10,200,000, and that is more than Nebraska gets now.

Senator KERREY. We are happy. [Laughter.]

#### NEED FOR A NATIONAL INDUSTRIAL POLICY

Senator HOLLINGS. Very good.

General Reno, you have turned into the national confessor. All these Senators are coming up here crying on your shoulders, and in that light let me just make a comment relative to this discussion of more money for prisons, crime, policemen on the beat, money, money, money. I learned long ago as a Governor it is cheaper to feed the child than it is to jail the man. I have written a book on America's hunger problem. And yes, we have not fleshed out women's, infants', and children's feeding, we have not fleshed out and really financed more than one-half of Head Start. We have got to do a lot better by way of education, and with the breakdown of the family that is particularly important.

On the other hand, there are no jobs out there either. We have gone on an affirmative action plan of some 40 years to rebuild the economies in capitalism the world around—Europe, the Pacific rim—and it worked. But in doing so we are in the hands of the Philistines, the multinationals, the multinational industries and banks, the think tanks, the retailers, the editorialists in the newspapers that get 80 percent of their revenue from the retailers.

Yet, when you look at the census figures that came out last year, that age group between 18 and 24 cannot find a job or cannot find a job outside of poverty. So we big old Senators are running around here making graduation speeches about how the future belongs to you, but then the graduation class goes out and there is not any future out there at all.

Something has got to be done on the end of enforcing our trade laws. We do not have to pass any new ones, but the fact of the matter is in this international global competition the opposition, the competition, is all for market-share, and we are all for a quality product at a cheaper price. We are not in the same game. And we have got such childish cries about industrial policy and everything else of that kind. All of our competition has an industrial policy.

We do, too, but it is all to create a higher standard of living. When I put on a minimum wage and clean air and clean water and Social Security and health care, plant closing notice, parental leave, on and on and on, and we all agree on that, that is not a partisan thing and it is a wonderful thing, but then we do nothing for this high standard of living to protect it.

So the fault is not yours and the solution is not yours, in main. In main that solution belongs right here in this Congress, with respect to a competitive trade policy, to build back our manufacturers who used to represent 32 percent of our GNP, but now it is down by one-half to 16 percent. And, there is simply no opportunity out there. I have got training coming out of my ears. All of us now get the buzz words from this think-tank crowd about education, training, skills, skills, skills, like we do not have them.

I never have built an automobile, but I have got BMW coming to South Carolina to build one. Alabama never has built an automobile, but they have got Mercedes Benz coming to build one. They do not understand that we are hungry down home in Alabama and South Carolina and we have got the training facilities and we can create the skill to make anything. Overall, America still has the most productive industrial worker in the entire world.

So, it is the trade policy that we have set up here that contributes to the crime problem. Now we are coming and we are going to ask Dr. Hawk here why do we not get more prisons, why do we not do this, why do we not get more police officers? We are building more jails, but we ought to be building more schools. And on that score, I just have to weigh in here with all of these things that they are crying on your shoulders about, specifically on the violent crime task force.

#### VIOLENT CRIME TASK FORCES

We have had over the years the organized crime drug enforcement task force, and we used the State and local folks in that joint effort. We have moneys in there for overtime and other support

needs, and we continually have it and have it in this bill. But now when you get your violent crime task force I see no provision for that overtime or that support need. What about that?

Ms. RENO. Senator, I watched local police officers participate in Federal programs because there was money there for overtime. What I would like to see us do, and what I think we can and are doing, is come together and just in the regular working hours see what we can do to work together first. And then, if additional monies are needed, let us look at it.

But I came into office and I found that the turf battles were worse than I thought they were, just between the Federal agencies, in terms of looking at violent crime. In Washington, DC, DEA had a cold case murder squad, the FBI had violent crime/safe streets task force, ATF had a triggerlock task force; everybody had their own task force. People are beginning to work together now. Through our Office of Investigative Agency Policies they are coming together and sharing information, and I think it is an unparalleled time of cooperation.

But then, as I have told you before, when the Feds came to Miami they would come in and say well, we want this and this and this. But it too often was not a two-way street, and I want to make it a two-way street. I want to work with law enforcement and see what is needed. But first of all we have got to start working together, not in isolated task forces that keep people away from the mainstream of what is going on, but in a really truly coordinated effort.

#### OVERTIME AND ASSISTANT U.S. ATTORNEY CUTS

Senator HOLLINGS. Well, as I say, the overtime has worked on the organized crime drug enforcement task force program and if we want to make sure the violent crime task force works, we may need to pay them overtime when they are working all night, standing out all night long in these drug drops and what-have-you.

One more question, you eliminate \$14 million and 62 assistant U.S. attorney slots in your budget, but then you request \$16.8 million for 63 new attorney positions here in Washington, and at the Department.

Do you have a comment?

Ms. RENO. Yes, sir, I do. First of all, we want to make sure that there is a fairer allocation between U.S. attorneys based on a sound standard of workload, and I think that is important that we achieve that first.

Second, I think it is important that we prioritize, and we have clearly sent a signal that violent crime in our partnership with local law enforcement—in appropriate support of local law enforcement, not federalizing except where it is appropriate.

You have got a drug dealer going across State lines murdering people as he goes; he probably belongs in Federal court. He can be prosecuted far more effectively there than in three different State courts. But that violent crime is clearly the first priority.

As I talk to some U.S. attorneys, they tell me that various agencies come to them driven by the desire to get points for evaluation based on indictments. It does not make any difference the size of

the case or the amount of the case involved, it is the indictment that is important for their evaluation.

I want to work with law enforcement to turn that around, so that we focus on the crime problem that is most important, and that people get points for doing as much as they can to interrupt and disrupt that particular crime problem.

With respect to the issues that we talked about, civil rights, the Americans With Disabilities Act enforcement, and antitrust, I think these are three areas that have been neglected over the last several years. I think they have been understaffed. I think they can do far more.

One of the concerns I have, however, is developing a true team effort between U.S. attorneys and main Justice. We had a conference here in January in which I asked all the U.S. attorneys to come to Washington to emphasize that they were a part of my team, that I did not want to stand in Washington and tell them what I wanted done, because they know their district far better than I do.

What I want to try to do is use these new people that we bring on board to develop the expertise and then, as it is important, or as it is better that it be handled at a local level, shift resources so that it is handled best. If it is best handled in main Justice, handle it there. If it is best handled in the district of South Carolina, let Mr. Strong handle it there. We can do so much if we focus on it as a team and main Justice and the local U.S. attorney do what each does best.

#### BORDER PATROL AGENTS

Senator HOLLINGS. Let me ask—and I am going to submit questions relative to the prisons and several other particular problems.

I know this subcommittee is readily interested in the Border Patrol, and I notice you have got a \$181 million request for controlling the border. Yet only \$10 million of that is for hiring 390 additional Border Patrol agents.

We are wondering perhaps if it wouldn't be wiser to take another \$10 million and get 700 of these Border Patrol agents, rather than that much in equipment. What do you think about that type of adjustment—to take another \$10 million from that \$181 million to double the amount of Border Patrol agents?

Maybe you would want to comment, I do not know.

Ms. RENO. Yes; I would very much want to comment, because when I took office I quickly learned that immigration was probably going to be one of the most challenging issues that I faced in my time as Attorney General.

I found that there were Border Patrol agents sitting behind desks doing other things, other than being on the field, because they did not have a car; and, if they had a car, they did not have a radio. I found that there was no plan that was an organized plan from San Diego down to the Texas border.

I wanted to try to develop something that made sense, and what was clear to me is that INS has not been given the technological infrastructure that can enhance the effectiveness of Border Patrol agents on the border. So I have taken two steps: one, to make sure that we get the people out from behind the desks, from driving the

bus to take the person to the detention facility where somebody else other than a trained Border Patrol agent can do that, and get them back on the border.

At the same time, I want to make sure that when they are on the border they have the car, they have the radio, they have the computer capability, they have the night light, the technical equipment that can enhance and make far more effective one Border Patrol agent's presence on the border rather than if he did not have the infrastructure to go with it.

We have really tried to plan this very carefully and we would look forward to working with you, Mr. Chairman, to address any concerns that you have and to try to make it the right way.

#### ADDITIONAL COMMITTEE QUESTIONS

Senator HOLLINGS. Well, the committee is indebted to you, General Reno, for your appearance here and the cooperation and leadership you have given us.

[The following questions were not asked at the hearing, but were submitted to the Office for response subsequent to the hearing:]

## QUESTIONS SUBMITTED BY SENATOR ERNEST F. HOLLINGS

United States Attorney Reduction

**QUESTION:** In your request for United States Attorneys, I see where you are asking for a net program reduction of \$14 million and the elimination of 62 Assistant United States Attorney positions.

At the same time, I see where you have requested a program increase of \$16.8 million for 63 new attorney positions for the Department's litigative divisions based out of Washington -- Civil Rights, Environment, and Antitrust.

What is the nature of the work to be performed by these Washington-based divisions in 1995 that has led you to assign them a higher priority than that accorded your field attorneys?

Is the shift in the Department's prosecution resources from United States Attorneys to headquarters litigation divisions part of a long-term strategy?

**ANSWER:** The enhanced resource levels in such areas as antitrust, civil rights, and environment reflect the Administration's decisions to highlight renewed commitments to aggressive prosecution and litigation in these areas. The divisions handle highly specialized cases and have in fact requested that the United States Attorneys be more active in these particular areas. I, too, have indicated a strong desire that United States Attorneys move rapidly and aggressively into these areas. Therefore, there may be internal shifts within individual United States Attorney offices in these areas in the future as well. I believe that we will have an active and beneficial new partnership between the divisions and the United States Attorneys' offices.

The litigating divisions and the United States Attorneys must work together on significant cases, developing a synergy from the specialized expertise of the litigating division in a particular program area and the specialized litigation experience of Assistant United States Attorneys in the particular district. Increasing the pool of expertise in the litigating divisions will support the efforts of the United States Attorneys.

**QUESTION:** Last year, the Department reduced the authorized staffing level of every United States Attorney office by five percent. To implement this additional 62 Assistant United States Attorney reduction requested in 1995, you indicate the cut will be "applied across all U.S. Attorney programs and will be achieved by the continuation of a modified hiring freeze throughout the offices of the U.S. Attorneys".

If a crime bill is enacted that increases the number of Federal crimes and, therefore, the prosecutorial workload of United States Attorney offices, in which areas should United States Attorneys reduce their resources?

ANSWER: The reductions in authorized field staffing referenced in the question were imposed by the Attorney General's Advisory Committee and the Executive Office for United States Attorneys. As a result of these limitations, and the cost savings achieved in response to them, the goal of the hiring freeze was modified from 9 percent less than authorized staffing levels to only 5 percent, earlier this year. If further savings are identified and implemented, it may be possible to ease the hiring limitations still further...

As difficult as the freeze has been, especially at a time when new priorities have been articulated and new crimes made Federal, it has also presented the opportunity -- indeed, the requirement -- for both leadership and management in United States Attorneys offices around the country. New United States Attorneys and their staffs have found innovative and important ways in which to reduce costs and focus upon the most critical of priorities. We have taken this period of difficulty as one that also presents opportunities to function in the most efficient and effective ways possible.

Some of the proposals that allow us to do a more efficient job in managing new responsibilities as well as existing ones include the enhanced use of paralegals, better legal management and better planning and review with Federal investigative agencies. We will also seek to increase coordination and cooperation between Federal, State and local prosecutors and investigators to make better use of limited resources. Finally, in compliance with the President's mandate to reinvent government, the Department is working to simplify internal procedures in areas covering Departmental review or approval of field activities.

QUESTION: The Federal Bureau of Investigation (FBI) Director announced last month that 600 FBI agents would be transferred from administrative positions to investigative position in the field. I support this move and have advocated fewer "desk" agents for several years.

My concern now, however, is with the United States Attorney's ability to keep up with the additional prosecutions generated by these agents.

In light of the additional reductions proposed for Assistant United States Attorneys, what impact will the large increase in Federal investigators have on their ability to keep up with prosecutions?

ANSWER: As the transfers and subsequent investigations begin to produce cases it will be necessary for the United States Attorneys' offices to respond to changing circum-

stances. Some of the additional workload can be absorbed through tighter management and technical improvements in procedures and equipment. The balance will be met by reassessing case priorities, and shifting resources within the affected Districts. In some cases, this will mean lesser priority items may take longer to address or they may be shifted to administrative or State disposition in partnership with our local counterparts. This is part of the normal cycle of shifting priorities and problems in individual districts. As in many areas, United States Attorneys will need to make choices based not only on case provability but also upon achieving maximum deterrence impact. Furthermore, because of delays caused by the need to free up funds to pay for relocations of agents and the lead time to begin producing prosecutable cases, the initial impact of the transfers will be small, allowing for adjustments over several fiscal years.

#### Future of Organized Crime Drug Enforcement Task Forces

**QUESTION:** Since 1990, the Organized Crime Drug Enforcement Task Force (OCDETF) program has been funded through a single account at the Department of Justice. Eleven Federal law enforcement entities are reimbursed for their participation in OCDETF cases.

The OCDETF program was originally designed to set policy and direct resources to the agencies as needed -- but, the level of reimbursement is now set in the appropriation request and it seems the Department's OCDETF program at this time simply functions as a "pass through" of resources to these entities.

With your recently-announced initiative to fight violent crime through the establishment of Federal, State and local task forces working together in the investigation and prosecution of violent crimes, have you given any thought to dismantling the separate OCDETF program, transferring the monies earmarked for the various OCDETF participating agencies back to the agencies for them to use as they deem more appropriate, either on drug task forces or violent crime task forces?

Wouldn't such a move greatly improve the likelihood of success of your new violent crime initiative since these task forces are, as of yet, unfunded?

Is this an area that perhaps your Director for Investigative Agency Policies -- Director Freeh -- should pursue?

It seems to me that moving these monies back into the participating agencies would remove a layer of bureaucracy while giving agencies greater flexibility in managing their resources to fight drugs and violence. Would you agree?

**ANSWER:** The OCDETF program was created in 1982 to improve Federal efforts to respond to the power of major drug trafficking organizations. Targeting the highest level

organizations, the persons who lead them, and their illegal assets through creating an environment in which all Federal drug enforcement and prosecution officials could join with their State and local counterparts has proven to be eminently successful.

By consistently monitoring and refining the management process, the OCDETF program has reached a high level of maturity and productivity. It has become the model for comprehensive and well coordinated efforts to deal with major drug trafficking and drug-related criminal activities.

The February, 1994 National Drug Control Strategy states:

"The multi-agency task forces are exemplified by the Organized Crime Drug Enforcement Task Forces, which work with senior Federal prosecutors and often involve State and local authorities. The Task Forces can (1) utilize the range of Federal investigative and prosecutive tools, as well as associated seizure and forfeiture laws; (2) facilitate cooperation among all levels of government; and (3) provides a means of combining skills and resources to achieve the greatest effects against drug traffickers. Use of such Task Forces can help bridge the gaps in enforcement between those efforts that are uniquely Federal and those that are successfully undertaken by State and local authorities. In this way, all levels of drug trafficking -- from the international suppliers through the transportation and financial service providers, to the wholesalers, to the street corner retailers -- can be targeted by law enforcement".

1993 marked the 11th anniversary of the OCDETF program. During the first eleven years of operation, the Task Force has recorded impressive results. From its inception late in 1982, the program has initiated 6,171 investigations resulting in 16,768 indictments or informations, 34,375 members of criminal organizations have been convicted and 29,444 or 88 percent have been incarcerated, 8,907 of which are serving over ten years in prison for their crimes. During this same period, over \$2.8 billion in cash and property have been seized.

The consolidated budget process has resulted in the following management improvements:

- Accountability. By placing all of the resources for Federal agency participation in the OCDETF program in a consolidated appropriation, accountability is achieved. Congress no longer must gather resource information from eleven separate agencies, but need only look to the Attorney General for an accounting of the level of resource dedication to this program.
- Control. It is clear that Congress realized accountability could not be achieved without vesting control of the resources in one place. The establishment of the

Organized Crime Drug Enforcement appropriation in the Department of Justice, under the direct control of the Attorney General, has accomplished this goal.

- Flexibility. The process of reimbursements to participating agencies, and the authority to reallocate resources among agencies and the Task Forces are clearly intended to provide the Attorney General with the flexibility to manage the OCDETF program efficiently and effectively.

In regard to the violence problem, OCDETF has been an aggressive force against violent crime.

In June, 1994, the Eastern District of Missouri brought to an end the longest criminal trial in the history of St. Louis. U.S. v. Jerry Lewis, et. al. was a fifteen defendant RICO indictment brought by OCDETF. The target of this investigation was a violent drug trafficking organization that operated under the cover of a religious group known as the Moorish Science Temple of America. The Drug Enforcement Administration (DEA) attributes 33 percent of all of the cocaine distributed in the St. Louis area to this organization. The members of the Moorish Science Temple maintained their power through a ruthless pattern of violence including twelve acts of homicide.

Two of the fifteen defendants received sentences in excess of twenty-five years, three others pled guilty and agreed to cooperate as witnesses. The nine principals all received life sentences.

To further illustrate OCDETF's work on violence, the United States Attorney for the Northern District of Georgia reports that "our focus has not only been on drugs and money laundering but also on the violence associated with it. It has been our experience that most crimes of violence are in some way drug related. Consequently, under the OCDETF umbrella, we have handled our share of Triggerlock, Armed Career Criminal and other violent gang-related crimes.

To give you some examples:

- In the Western District of North Carolina, a Violent Crimes Task Force was created under OCDETF to look at the growing problem of the violence associated with persons from Guyana, Jamaica and the Dominican Republic in the Charlotte area. With agents from the Bureau of Alcohol, Tobacco and Firearms (BATF) and the Immigration and Naturalization Service working with the Charlotte Police Department and the Mecklenburg County Police Department, 49 indictments charging 244 defendants, including a number of juveniles, have been returned.
- In the Eastern District of Tennessee, they were experiencing significant problems with crack cocaine in the housing projects of Chattanooga. These persons also dealt extensively in stolen handguns, especially large

caliber handguns. A task force operating under the OCDETF umbrella consisting of BATF, DEA and FBI agents as well as officers from the Chattanooga Police Department and the Hamilton County Sheriff's Office was formed to address the problem. To date, 127 indictments charging well over 300 persons have been returned.

In conclusion, the Department is regularly reviewing options for improving the Federal law enforcement and prosecution capacity, especially in cooperation with our State and local counterparts. I believe that OCDETF has accomplished a great deal and that there are major lessons to be learned from this program. I will examine OCDETF along with all other programs from this perspective and will make my recommendations based on the best and most productive approaches possible.

I believe that the key to success in combatting violent crime is in establishing standard operating procedures that encourage the widest possible dissemination of information and expertise across the full spectrum of law enforcement agencies. The kind of cooperative partnership between Federal, State and local law enforcement agencies that is necessary to address violent crime has existed for more than a decade under the auspices of the OCDETF program, and should serve as a model of how we can do more with less.

Independent of the issue of the funding needs of the new violent crime initiative, I have been considering options available to provide additional flexibility in the use of appropriated resources for Federal law enforcement agencies and prosecutors. Your observation that dismantling OCDETF and moving the resources back to participating agency budgets would eliminate a layer of bureaucracy and give the agencies greater flexibility in managing resources might be correct from the headquarters perspective. However, it should be noted that one of the reasons the OCDETF program is so successful is that management of the cases is handled in the field, not in Washington. The Coordinating Committees in each of the thirteen OCDETF Regions are ideally suited to be able to find and dedicate necessary resources to cases in an efficient and expeditious manner, without the necessity of clearance from headquarters or the concerns of adhering to strict field office planning targets dictated from Washington. While resource planning and allocation at the national level is important for any law enforcement agency, day-to-day decisions about how best to apply limited resources should be delegated to the field.

#### Increased Funds for Prison Operations

QUESTION: I see where the Department has requested a \$457 million increase to operate the Federal Prison System in fiscal year 1995. \$260 million of the increase will provide full year funding of the 12 new facilities scheduled to come on line this year (1994) and another \$101 million will cover the cost of opening 12 more facilities in 1995. That's 24 new Federal prison facilities scheduled to open in 1994 and

1995. Unfortunately, that \$457 million is a mighty big increase and, depending on our 602(b) allocation, it may be difficult to provide fully.

What consequences will the Federal Prison System face in 1995 if this significant increase in funds is not provided? Are there facilities that you plan to open in September 1994 that will remain vacant if the funds sought in 1995 are not provided?

ANSWER: The consequences of insufficient funding would be significant. With Federal prisons being filled beyond capacity almost as soon as they begin accepting inmates, it would be unwise to build prisons and not provide operational resources. The amounts required to operate new facilities simply cannot be absorbed. Thus, if resources are not provided, overcrowding will rise to dangerously high levels, and new facilities will likely remain vacant until funds become available.

To demonstrate the full impact of insufficient funding it is critical to note that the 1995 budget includes funding for a total of over 19,000 beds (approximately 9,500 annualized from 1994, and 9,673 for 1995).

The facilities scheduled to open in September and October of 1994 (Florence Federal Correctional Complex (Administration Maximum Security), Cumberland Federal Correctional Institution (FCI), Pekin FCI, and Greenville FCI) will not be able to proceed with full activation and will likely remain vacant if the full Department request is not provided. The levels of overcrowding that would be produced without the activation of new facilities will, without question, cause working and living conditions to degenerate.

#### Impact of Crime Bill on Federal Prison Population

QUESTION: I note where your budget projects an average daily Federal prison population of 92,667 in 1995 -- an increase of 8,445 from the average daily population of 84,222 expected in 1994. What is the current rate of capacity in the Federal System and the current rate of overcrowding?

Given all that is on the table with regard to expanding the Federal Criminal Code in the pending crime bills, and using your judgement as to which provisions will likely be enacted, do you anticipate an even faster rate of growth in the Federal prisoner population than that being generated by current policy?

How will increased Federal prison overcrowding affect the management of our prison system?

ANSWER: As of March 17, 1994, the Bureau of Prisons (BOP) housed 83,587 inmates, with a rated capacity of 60,785 -- 38 percent over capacity. By State correctional standards, this is equivalent to 70 percent overcrowding.

As you know, BOP forecasts inmate population and formulates resource requirements based on current laws and criminal justice initiatives. Any changes in these initiatives could affect our inmate population and resource needs significantly. We have reviewed and provided comments on various bills introduced in the first session of the 103rd Congress, and we believe that some provisions could produce an even faster rate of growth than our current estimates show.

There are several management problems caused by prison overcrowding. Perhaps the most obvious and unsettling is the potential increase in inmate violence inflicted upon BOP staff or other inmates. As crowding has gone up, so too have our negative indicators. During the past year, the rates of homicides, suicides, and assaults on inmates and staff have all risen.

Between 1991 and 1993, there was an 11-percent increase in assaults (in 1993, there were 2,539 assaults of which 51 percent were against staff). Between 1989 and 1993, disruptive group incidents have increased by 288 percent, while the population has grown by 58 percent. In 1993 and 1994, seven significant disturbances have resulted in major property damage and financial costs of approximately \$2,956,000. Further, the number of inmates with offenses related to gangs, firearms, and robbery have increased. The population, in general, has become significantly more disruptive, aggressive, and prone to violence. In 1992, there were four homicides; in 1993, there were seven; and in 1994, there have been nine homicides to date.

#### Unobligated Balance of Prison Construction Funds

**QUESTION:** As we can see from the 24 new prison facilities coming on line in 1994 and 1995, the Federal Government has been aggressively undertaking the construction of new Federal prisons over the last several years.

With these new facilities coming on line, where do we now stand in terms of the remaining unobligated balance in the Federal prison construction account? How many new prisons would you estimate are in the pipeline and plan to be built using the balances in the prison construction account? Can you project what the activation costs of these new facilities will be and when we can expect to be hit with them?

**ANSWER:** You are correct. BOP has been moving quickly over the past few years as evidenced by the activation funds requested in this budget. Currently, BOP's Buildings and Facilities appropriation has approximately \$1.4 billion in unobligated balances. Of that amount, over \$1.1 billion is to construct new prison beds. All of these funds are committed against projects under initial sitework or design.

We estimate that about \$1 billion will be carried forward into 1995 to continue and complete the new construction projects. Of the 36 prisons scheduled to come on-line, 31 have remaining unobligated balances. Consistent with the

time required to plan, design, and construct a prison properly, the last of these projects will be completed in 1998. We also estimate that annualization and new activation resources will require an average increase of \$350 million over each of the next five years.

#### Supervision of Teamsters Election

**QUESTION:** I note where the only program increase sought for the United States Attorneys is nearly \$7 million to pay the first year costs of an independent Election Officer to supervise the 1996 election of officers of the International Brotherhood of Teamsters (IBT).

Why is the Department of Justice being asked to fund the oversight of this election? Can't the monies come from the Teamsters General Fund?

Does Justice plan to fund the Election Officer even if the Congress does not add new monies to the United States Attorneys account for this purpose?

**ANSWER:** The 1989 Consent Decree in United States v. IBT provided for the supervision of the 1991 and 1996 International Union Officer Elections by an independent Election Officer. The Consent Order mandated the use of a newly-devised election procedure, including direct voting for International Officers by the 1.6 million union members. In 1991, the IBT paid all the costs of supervision. The Consent Decree provides that, for 1996, the Government can have an independent Election Officer conduct the supervision at Government expense. This election in 1996 will, in all likelihood, be the last opportunity in this generation to nurture democratic participation of the membership in union governance through intensive election supervision. The IBT will never again voluntarily subject itself to this sort of scrutiny, and it took the Government decades to assemble proof of corruption sufficient to warrant requesting this far-reaching relief from a court. Control over the union continues to be a valuable prize; corrupt control affects not just the union membership, but the national economy and the public interest.

The Subcommittee should allocate approximately \$7 million for this purpose because a decision not to fund the supervision of the 1996 election, we firmly believe, would undo the extensive work and efforts that the Department has made to free the IBT from mob control and could be perceived as an abandonment of the commitment to rid the IBT of mob infiltration. The Department's efforts have been closely followed by Senator Nunn's Permanent Subcommittee on Investigations which held three days of hearings in 1989 following the signing of the Consent Decree in the civil RICO case. Senator Nunn described the Consent Decree as an "historic agreement" and noted that "... the Subcommittee has repeatedly expressed its view that the union must free itself of any association with organized crime in order to

adequately serve the interest of many honest and law-abiding rank-and-file members across this country."

Although the importance of the Government's involvement in the IBT election is unquestioned, we cannot, at this time, commit to funding the Elections Officer if new monies are not made available.

#### United States Marshals Service

**QUESTION:** I see where you have requested an increase of nearly \$17 million for the United States Marshals Service to perform its highest priority mission -- Protection of the Judicial Process.

With the filling of 100 new Federal judgeships expected this year alone, and another 60 projected in 1995, the Marshals Service is already under pressure to ensure the protection of the Federal courts.

In order to ensure the safe operation of our judicial process, are there areas of the United States Marshals operations that you would curtail in 1994 or 1995, if necessary?

If the current pace of filling judgeships keeps up -- I believe 33 have been filled since October, 1993, and 28 are pending in the Senate -- will you need to reprogram funds from another justice function to ensure the adequate safety of our courts?

**ANSWER:** The United States Marshals Service will always place its highest priority on the protection of the judicial process when allocating its resources. But, providing adequate protection for Federal courthouses and judicial officers has become increasingly difficult as the number of Federal judges and court locations have expanded.

In 1994, in order to meet the payroll costs of maintaining adequate permanent personnel for its mission activities and pay rent for space in new court locations, the Marshals Service has reduced funds available for other costs, such as overtime, guards, local travel expenses, supplies, and equipment. Reductions to guard and overtime funding have required Deputy Marshals to devote more of their available hours to the primary missions of courtroom and prisoner security, and fewer to fugitive apprehension, seized asset management and service of process. As a result, less work is accomplished in these areas.

These difficulties will increase as current judicial vacancies are filled and additional court facilities are opened. The 103 new Deputy Marshal positions requested in the 1995 budget will allow the Marshals Service to meet the staffing requirements generated by these new judges. However, because the Marshals Service will be required to provide extraordinary security measures at several very high threat trials during 1995, such as the second World Trade

Center bombing trial, the Department is evaluating whether the 1995 request will provide sufficient resources for the Marshals Service to meet the requirements posed by the opening of new courthouses. If we determine that the Service does not have sufficient resources, we will make reallocations within Departmental resources to correct the deficiencies.

Crime Control Fund

**QUESTION:** Over \$2.4 billion of the Department's \$2.8 billion increase in funding is designated for programs within the Crime Control Fund.

If a crime bill is not enacted or if a separate Crime Control Fund is not established in the crime bill that ultimately becomes law, is it your understanding that the President's budget includes, within the discretionary caps, this additional \$2.4 billion in crime fighting monies for the Department of Justice?

**ANSWER:** It is our understanding that the \$2.4 billion, included in the Department's 1995 request for the Crime Control Fund, is within the discretionary caps.

**QUESTION:** The Department's request for the \$2.4 billion in the Crime Control Fund specifically identifies \$1.8 billion for community policing grants; \$100 million for criminal records upgrades; and \$300 million for increase border control efforts. The remaining \$303 million is unidentified.

What programs would you support funding with this \$303 million?

**ANSWER:** The \$303 million in other Crime Control Funds may be used for programs such as boot camps, drug court programs, police corps, and law enforcement technology initiatives.

**QUESTION:** Would you support restoring the State and local formula grant program with these resources?

**ANSWER:** In general, I believe that the Department's request, which increases aid to State and local law enforcement agencies by \$1.8 billion, a 300-percent increase, will more than offset the loss of programs funded through the Byrne grants. At the same time, I recognize that one major problem with the elimination of the Byrne formula grants may be the loss of funding for law enforcement officers participating in existing Multijurisdictional Task Forces. In 1993, it is estimated that \$125 million of the total formula grant funding of \$358 million was used to support task force efforts.

Therefore, we have identified \$125 million in the Administration's 1995 budget request that can be used in order to fund them. The proposed offsets to the pending request

include: a \$50 million reduction in the public safety and community policing grants for 1995; \$50 million from the proposed increase for funding Byrne discretionary grants; and \$25 million from the proposed \$69 million increase in funding for the Office of Juvenile Justice and Delinquency Prevention. The Administration is also supporting an amendment to the crime bill to make the Byrne grant program eligible for funding from the Crime Control Fund. This is necessary to permit use of the \$50 million offset from the policing grants for Byrne grant funding.

It is also possible that the \$125 million could be provided from the \$303 million in requested Crime Control Funds. However, given the many valuable programs authorized in the Crime Bill, it would be difficult to support full restoration of the Byrne formula grants from this source.

#### Justice Spending by State

**QUESTION:** By bureau, and where possible by program, please provide Justice Department full-time equivalent (FTE) employment and spending for 1994 by State and territory. Please provide your forecasts for 1995 based on your budget submission. Where programs cannot be forecast by State -- such as discretionary grants -- please note.

**ANSWER:** Charts providing the Department's planned obligations by State and territory are attached. This information is provided by State and by Justice account for 1993 (actual obligations), and for 1994 and 1995 (estimated obligations). The Department does not maintain FTE information by State and territory. We are attempting to gather this information and will provide it to the Subcommittee separately.

DEPARTMENT OF JUSTICE  
GEOGRAPHIC DISTRIBUTION OF OBLIGATIONS  
(DOLLARS IN THOUSANDS)

## ALABAMA

	1993 ACTUALS	1994 ESTIMATE	1995 ESTIMATE
APPROPRIATION			
GENERAL ADMINISTRATION.....			
INSPECTOR GENERAL.....			
CRIME CONTROL FUND.....**			
WEED AND SEED FUND.....**			
QUANTICO TRAINING CENTER.....			
U.S. PAROLE COMMISSION.....			
GENERAL LEGAL ACTIVITIES:			
SOLICITOR GENERAL.....			
TAX DIVISION.....			
CRIMINAL DIVISION.....	4	4	4
CIVIL DIVISION.....	75	75	75
ENVIRONMENT & NATURAL RESOURCES DIVISION.....			
OFFICE OF LEGAL COUNSEL.....			
CIVIL RIGHTS DIVISION.....			
INTERPOL.....			
LEGAL ACTIVITIES AUTOMATION.....			
SPECIAL COUNSEL FOR DISCRIMINATION.....			
TOTAL GENERAL LEGAL ACTIVITIES.....	80	79	79
ANTITRUST DIVISION.....			
US ATTORNEYS.....	12,278	13,054	12,812
FOREIGN CLAIMS SETTLEMENT COMMISSION.....			
US MARSHALS.....	4,419	4,907	5,644
SUPPORT OF U.S. PRISONERS.....	2,898	3,532	3,968
COMMUNITY RELATIONS SERVICE.....			
U.S. TRUSTEES.....			
RADIATION COMPENSATION ADMIN EXP.....			
RADIATION COMPENSATION TRUST FUND.....			
ORGANIZED CRIME DRUG ENFORCEMENT.....	2,834	2,808	2,716
FEDERAL BUREAU OF INVESTIGATION.....	14,858	15,560	16,133
DRUG ENFORCEMENT ADMINISTRATION.....	922	852	720
IMMIGRATION & NATURALIZATION SERVICE.....	655	702	761
FEDERAL PRISON SYSTEM:			
SALARIES & EXPENSES.....	29,743	32,232	33,865
NATIONAL INSTITUTE OF CORRECTIONS.....	2,667	2,261	2,261
BUILDINGS & FACILITIES.....	2,710	2,550	5,188
TOTAL, FEDERAL PRISON SYSTEM.....	35,120	37,043	41,292
OFFICE OF JUSTICE PROGRAMS.....**	9,302	7,033	993
FEES & EXPENSES OF WITNESSES.....	1,399	1,443	1,487
INDEPENDENT COUNSEL.....			
CIVIL LIB. PUB. EDUCATION FUND.....			
PRE-MERGER FILING FEES.....			
PUBLIC SAFETY OFFICERS BENEFITS.....**	360	127	
ASSETS FOR FUND PERM BUDGET AUTHORITY.....	3,054	3,442	3,305
DIVERSION CONTROL FEE.....	58	204	210
IMMIGRATION & NATURALIZATION FEES.....	115	128	141
CRIME VICTIMS FUND.....**	2,513	1,884	1,192
TOTAL DEPARTMENT OF JUSTICE.....	90,883	92,778	91,453

\*\* NOTE: For 1994 and 1995 grants are not by state, since historical information is not obligations.

DEPARTMENT OF JUSTICE  
GEOGRAPHIC DISTRIBUTION OF OBLIGATION  
(DOLLARS IN THOUSANDS)

	ALASKA		
	1993 ACTUALS	1994 ESTIMATE	1995 ESTIMATE
APPROPRIATION			
GENERAL ADMINISTRATION.....			
INSPECTOR GENERAL.....			
CRIME CONTROL FUND.....**			
WEED AND SEED FUND.....**			
QUANTICO TRAINING CENTER.....			
U.S. PAROLE COMMISSION.....			
GENERAL LEGAL ACTIVITIES:			
SOICITOR GENERAL.....			
TAX DIVISION.....			
CRIMINAL DIVISION.....	15	16	16
CIVIL DIVISION.....	35	35	35
ENVIRONMENT & NATURAL RESOURCES DIV.....	424	466	519
OFFICE OF LEGAL COUNSEL.....			
CIVIL RIGHTS DIVISION.....			
INTERPOL.....			
LEGAL ACTIVITIES AUTOMATION.....			
SPECIAL COUNSEL FOR DISCRIMINATION.....			
TOTAL GENERAL LEGAL ACTIVITIES.....	474	517	564
ANTITRUST DIVISION.....			
US ATTORNEYS.....	3,713	3,946	3,875
FOREIGN CLAIMS SETTLEMENT COMMISSION.....			
US MARSHALS.....	3,226	3,583	4,120
SUPPORT OF U.S. PRISONERS.....	1,682	2,049	2,302
COMMUNITY RELATIONS SERVICE.....			
U.S. TRUSTEES.....	463	463	520
RADIATION COMPENSATION ADMIN EXP.....			
RADIATION COMPENSATION TRUST FUND.....			
ORGANIZED CRIME DRUG ENFORCEMENT.....	363	361	349
FEDERAL BUREAU OF INVESTIGATION.....	3,022	3,165	3,261
DRUG ENFORCEMENT ADMINISTRATION.....	418	418	424
IMMIGRATION & NATURALIZATION SERVICE.....	1,751	1,877	2,033
FEDERAL PRISON SYSTEM:			
SALARIES & EXPENSES.....			
NATIONAL INSTITUTE OF CORRECTIONS.....	20	17	17
BUILDINGS & FACILITIES.....			
TOTAL, FEDERAL PRISON SYSTEM.....	20	17	17
OFFICE OF JUSTICE PROGRAMS.....**	2,251	2,969	600
FEES & EXPENSES OF WITNESSES.....	404	418	430
INDEPENDENT COUNSEL.....			
CIVIL LIB. PUB. EDUCATION FUND.....			
PRE-MERGER FILING FEES.....			
PUBLIC SAFETY OFFICERS BENEFITS.....**	120		
ASSETS FORF FUND PERM BUDGET AUTHORI.....	2,066	2,333	2,237
DIVERSION CONTROL FEE.....			
IMMIGRATION & NATURALIZATION FEES.....	1,678	1,863	2,052
CRIME VICTIMS FUND.....**	583	706	341
TOTAL DEPARTMENT OF JUSTICE.....	22,234	24,727	23,145

\*\* NOTE: For 1994 and 1995 grants are not by state, since historical information is not obligations.

DEPARTMENT OF JUSTICE  
GEOGRAPHIC DISTRIBUTION OF OBLIGATION  
(DOLLARS IN THOUSANDS)

## ARKANSAS

	1993 ACTUALS	1994 ESTIMATE	1995 ESTIMATE
APPROPRIATION			
GENERAL ADMINISTRATION.....			
INSPECTOR GENERAL.....			
CRIME CONTROL FUND.....**			
WEED AND SEED FUND.....**			
QUANTICO TRAINING CENTER.....			
U.S. PAROLE COMMISSION.....			
GENERAL LEGAL ACTIVITIES:			
SOLICITOR GENERAL.....			
TAX DIVISION.....			
CRIMINAL DIVISION.....	15	16	16
CIVIL DIVISION.....	37	40	40
ENVIRONMENT & NATURAL RESOURCES DIV.			
OFFICE OF LEGAL COUNSEL.....			
CIVIL RIGHTS DIVISION.....			
INTERPOL.....			
LEGAL ACTIVITIES AUTOMATION.....			
SPECIAL COUNSEL FOR DISCRIMINATION.....			
TOTAL GENERAL LEGAL ACTIVITIES.....	52	56	56
ANTITRUST DIVISION.....			
US ATTORNEYS.....	5,376	5,717	5,811
FOREIGN CLAIMS SETTLEMENT COMMISSION			
US MARSHALS.....	2,401	2,667	3,067
SUPPORT OF U.S. PRISONERS.....	721	876	967
COMMUNITY RELATIONS SERVICE.....			
U.S. TRUSTEES.....	612	637	687
RADIATION COMPENSATION ADMIN EXP.....			
RADIATION COMPENSATION TRUST FUND.....			
ORGANIZED CRIME DRUG ENFORCEMENT.....	1,464	1,449	1,402
FEDERAL BUREAU OF INVESTIGATION.....	7,681	8,044	8,340
DRUG ENFORCEMENT ADMINISTRATION.....	916	847	713
IMMIGRATION & NATURALIZATION SERVICE....	523	561	607
FEDERAL PRISON SYSTEM:			
SALARIES & EXPENSES.....			
NATIONAL INSTITUTE OF CORRECTIONS.....			
BUILDINGS & FACILITIES.....	3,769	46,800	11,500
TOTAL, FEDERAL PRISON SYSTEM.....	3,769	46,800	11,500
OFFICE OF JUSTICE PROGRAMS.....**	4,958	4,946	600
FEES & EXPENSES OF WITNESSES.....	750	774	796
INDEPENDENT COUNSEL.....			
CIVIL LIB. PUB. EDUCATION FUND.....			
PRE-MERGER FILING FEES.....			
PUBLIC SAFETY OFFICERS BENEFITS.....**	610		
ASSETS FOR FUND PERM BUDGET AUTHORI	1,601	1,804	1,732
DIVERSION CONTROL FEE.....	56	204	210
IMMIGRATION & NATURALIZATION FEES.....	0	0	0
CRIME VICTIMS FUND.....**	1,048	1,330	776
TOTAL DEPARTMENT OF JUSTICE.....	32,540	76,716	37,066

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DEPARTMENT OF JUSTICE  
GEOGRAPHIC DISTRIBUTION OF OBLIGATIONS  
(DOLLARS IN THOUSANDS)

## ARIZONA

APPROPRIATION	1993 ACTUALS	1994 ESTIMATE	1995 ESTIMATE
GENERAL ADMINISTRATION.....	789	841	863
INSPECTOR GENERAL.....	601	619	631
CRIME CONTROL FUND.....**			
WEED AND SEED FUND.....**			
QUANTICO TRAINING CENTER.....			
U.S. PAROLE COMMISSION.....			
GENERAL LEGAL ACTIVITIES:			
SOLICITOR GENERAL.....			
TAX DIVISION.....			
CRIMINAL DIVISION.....	77	80	80
CIVIL DIVISION.....	89	90	90
ENVIRONMENT & NATURAL RESOURCES DIV.			
OFFICE OF LEGAL COUNSEL.....			
CIVIL RIGHTS DIVISION.....			
INTERPOL.....			
LEGAL ACTIVITIES AUTOMATION.....			
SPECIAL COUNSEL FOR DISCRIMINATION.....			
TOTAL GENERAL LEGAL ACTIVITIES.....	166	170	170
ANTITRUST DIVISION.....			
US ATTORNEYS.....	12,582	13,379	13,131
FOREIGN CLAIMS SETTLEMENT COMMISSION			
US MARSHALS.....	3,927	4,361	5,015
SUPPORT OF U.S. PRISONERS.....	5,196	6,332	7,112
COMMUNITY RELATIONS SERVICE.....			
U.S. TRUSTEES.....	2,031	2,116	2,280
RADIATION COMPENSATION ADMIN EXP.....			
RADIATION COMPENSATION TRUST FUND.....	1,171	1,100	800
ORGANIZED CRIME DRUG ENFORCEMENT.....	5,777	5,733	5,545
FEDERAL BUREAU OF INVESTIGATION.....	19,139	20,043	20,782
DRUG ENFORCEMENT ADMINISTRATION.....	8,098	7,889	7,563
IMMIGRATION & NATURALIZATION SERVICE...	55,013	63,978	63,876
FEDERAL PRISON SYSTEM:			
SALARIES & EXPENSES.....	49,441	53,575	57,302
NATIONAL INSTITUTE OF CORRECTIONS.....			
BUILDINGS & FACILITIES.....	5,487	2,841	6,819
TOTAL, FEDERAL PRISON SYSTEM.....	54,928	56,219	64,121
OFFICE OF JUSTICE PROGRAMS.....**	11,664	7,125	966
FEES & EXPENSES OF WITNESSES.....	1,821	1,879	1,936
INDEPENDENT COUNSEL.....			
CIVIL LIB. PUB. EDUCATION FUND.....			
PRE-MERGER FILING FEES.....			
PUBLIC SAFETY OFFICERS BENEFITS.....**	610	124	
ASSETS FOR FUND PERM BUDGET AUTHORITY	6,797	7,615	7,339
DIVERSION CONTROL FEE.....	174	612	631
IMMIGRATION & NATURALIZATION FEES.....	3,818	4,243	4,875
CRIME VICTIMS FUND.....**	1,430	1,325	1,119
TOTAL DEPARTMENT OF JUSTICE.....	186,712	206,709	208,378

\*\* NOTE: For 1994 and 1995 grants are not by state, since historical information is not available.

DEPARTMENT OF JUSTICE  
GEOGRAPHIC DISTRIBUTION OF OBLIGATIONS  
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## CALIFORNIA

APPROPRIATION	1993 ACTUALS	1994 ESTIMATE	1995 ESTIMATE
GENERAL ADMINISTRATION.....	4,911	5,006	5,960
INSPECTOR GENERAL.....	4,178	4,303	4,367
CRIME CONTROL FUND.....**			
WEED AND SEED FUND.....**	1,974		
QUANTICO TRAINING CENTER.....			
U.S. PAROLE COMMISSION.....			
GENERAL LEGAL ACTIVITIES:			
SOLICITOR GENERAL.....			
TAX DIVISION.....			
CRIMINAL DIVISION.....	272	261	260
CIVIL DIVISION.....	2,017	2,096	2,152
ENVIRONMENT & NATURAL RESOURCES DIV.....	640	924	1,017
OFFICE OF LEGAL COUNSEL.....			
CIVIL RIGHTS DIVISION.....			
INTERPOL.....			
LEGAL ACTIVITIES AUTOMATION.....			
SPECIAL COUNSEL FOR DISCRIMINATION.....			
TOTAL GENERAL LEGAL ACTIVITIES.....	3,129	3,303	3,449
ANTITRUST DIVISION.....	3,269	3,410	3,478
US ATTORNEYS.....	76,416	81,255	79,744
FOREIGN CLAIMS SETTLEMENT COMMISSION			
US MARSHALS.....	17,865	19,839	22,816
SUPPORT OF U.S. PRISONERS.....	21,395	26,073	29,267
COMMUNITY RELATIONS SERVICE.....	1,669	1,829	1,032
U.S. TRUSTEES.....	13,291	13,850	14,922
RADIATION COMPENSATION ADMIN EXP.....	2		
RADIATION COMPENSATION TRUST FUND.....	1,173	1,150	700
ORGANIZED CRIME DRUG ENFORCEMENT.....	42,046	41,696	40,289
FEDERAL BUREAU OF INVESTIGATION.....	159,152	166,675	172,615
DRUG ENFORCEMENT ADMINISTRATION.....	48,028	46,801	44,270
IMMIGRATION & NATURALIZATION SERVICE.....	203,394	239,582	262,145
FEDERAL PRISON SYSTEM:			
SALARIES & EXPENSES.....	172,706	187,156	196,641
NATIONAL INSTITUTE OF CORRECTIONS.....	292	248	248
BUILDINGS & FACILITIES.....	21,642	117,263	42,488
TOTAL, FEDERAL PRISON SYSTEM.....	194,640	304,669	239,377
OFFICE OF JUSTICE PROGRAMS.....**	62,667	61,914	7,769
FEES & EXPENSES OF WITNESSES.....	7,036	7,263	7,451
INDEPENDENT COUNSEL.....			
CIVIL LIB. PUB. EDUCATION FUND.....			
PRE-MERGER FILING FEES.....	1,214	1,964	2,103
PUBLIC SAFETY OFFICERS BENEFITS.....**	1,835	745	
ASSETS FOR FUND PERM BUDGET AUTHORITY.....	46,683	52,366	50,425
DIVERSION CONTROL FEE.....	1,191	4,182	4,312
IMMIGRATION & NATURALIZATION FEES.....	75,483	83,973	92,732
CRIME VICTIMS FUND.....**	31,372	22,049	7,605
TOTAL DEPARTMENT OF JUSTICE.....	1,024,457	1,194,407	1,097,066

\*\* NOTE: For 1994 and 1995 grants are not by state, since historical information is not available.

DEPARTMENT OF JUSTICE  
GEOGRAPHIC DISTRIBUTION OF OBLIGATIONS  
(DOLLARS IN THOUSANDS)

	COLORADO		
	1993 ACTUALS	1994 ESTIMATE	1995 ESTIMATE
APPROPRIATION			
GENERAL ADMINISTRATION.....	603	633	665
INSPECTOR GENERAL.....	365	375	383
CRIME CONTROL FUND.....**			
WEED AND SEED FUND.....**	487		
QUANTICO TRAINING CENTER.....			
U.S. PAROLE COMMISSION.....			
GENERAL LEGAL ACTIVITIES:			
SOLICITOR GENERAL.....			
TAX DIVISION.....			
CRIMINAL DIVISION.....	25	26	26
CIVIL DIVISION.....	171	175	175
ENVIRONMENT & NATURAL RESOURCES DIV.....	1,419	1,561	1,717
OFFICE OF LEGAL COUNSEL.....			
CIVIL RIGHTS DIVISION.....			
INTERPOL.....			
LEGAL ACTIVITIES AUTOMATION.....			
SPECIAL COUNSEL FOR DISCRIMINATION.....			
TOTAL GENERAL LEGAL ACTIVITIES.....	1,615	1,762	1,918
ANTITRUST DIVISION.....			
US ATTORNEYS.....	7,905	8,406	8,250
FOREIGN CLAIMS SETTLEMENT COMMISSION.....			
US MARSHALS.....	2,039	2,264	2,604
SUPPORT OF U.S. PRISONERS.....	358	436	490
COMMUNITY RELATIONS SERVICE.....	575	603	640
U.S. TRUSTEES.....	1,499	1,562	1,663
RADIATION COMPENSATION ADMIN EXP.....	46	50	55
RADIATION COMPENSATION TRUST FUND.....	13,229	10,000	9,000
ORGANIZED CRIME DRUG ENFORCEMENT.....	6,470	6,432	6,223
FEDERAL BUREAU OF INVESTIGATION.....	16,243	17,010	17,637
DRUG ENFORCEMENT ADMINISTRATION.....	3,751	3,473	2,940
IMMIGRATION & NATURALIZATION SERVICE.....	6,456	9,064	9,817
FEDERAL PRISON SYSTEM:			
SALARIES & EXPENSES.....	59,401	66,732	137,390
NATIONAL INSTITUTE OF CORRECTIONS.....	2,842	2,410	2,410
BUILDINGS & FACILITIES.....	7,071	6,063	10,558
TOTAL, FEDERAL PRISON SYSTEM.....	69,314	97,225	150,358
OFFICE OF JUSTICE PROGRAMS.....**	6,166	6,166	639
FEES & EXPENSES OF WITNESSES.....	932	962	990
INDEPENDENT COUNSEL.....			
CIVIL U.S. PUB. EDUCATION FUND.....			
PRE-MERGER FILING FEES.....			
PUBLIC SAFETY OFFICERS BENEFITS.....**	734		
ASSETS FOR FUND PERM BUDGET AUTHORITY.....	2,178	2,368	2,312
DIVERSION CONTROL FEE.....	232	616	641
IMMIGRATION & NATURALIZATION FEES.....	3,317	3,703	4,115
CRIME VICTIMS FUND.....**	2,618	2,418	1,032
TOTAL DEPARTMENT OF JUSTICE.....	151,134	177,770	222,792

\*\* NOTE: For 1994 and 1995 grants are not by state, since historical information is not obligations.

DEPARTMENT OF JUSTICE  
GEOGRAPHIC DISTRIBUTION OF OBLIGATION  
(DOLLARS IN THOUSANDS)

	CONN.		
	1993 ACTUALS	1994 ESTIMATE	1995 ESTIMATE
APPROPRIATION			
GENERAL ADMINISTRATION.....			
INSPECTOR GENERAL.....			
CRIME CONTROL FUND.....**			
WEED AND SEED FUND.....**			
QUANTICO TRAINING CENTER.....			
U.S. PAROLE COMMISSION.....			
GENERAL LEGAL ACTIVITIES:			
SOLICITOR GENERAL.....			
TAX DIVISION.....			
CRIMINAL DIVISION.....	23	24	24
CIVIL DIVISION.....	78	75	75
ENVIRONMENT & NATURAL RESOURCES DIV.			
OFFICE OF LEGAL COUNSEL.....			
CIVIL RIGHTS DIVISION.....			
INTERPOL.....			
LEGAL ACTIVITIES AUTOMATION.....			
SPECIAL COUNSEL FOR DISCRIMINATION.....			
TOTAL GENERAL LEGAL ACTIVITIES.....	101	99	99
ANTITRUST DIVISION.....			
US ATTORNEYS.....	7,453	7,925	7,778
FOREIGN CLAIMS SETTLEMENT COMMISSION			
US MARSHALS.....	1,802	2,001	2,301
SUPPORT OF U.S. PRISONERS.....	1,032	1,258	1,413
COMMUNITY RELATIONS SERVICE.....			
U.S. TRUSTEES.....	713	743	800
RADIATION COMPENSATION ADMIN EXP.....			
RADIATION COMPENSATION TRUST FUND.....			
ORGANIZED CRIME DRUG ENFORCEMENT.....	2,300	2,283	2,209
FEDERAL BUREAU OF INVESTIGATION.....	13,221	13,846	14,358
DRUG ENFORCEMENT ADMINISTRATION.....	1,281	1,107	759
IMMIGRATION & NATURALIZATION SERVICE.....	1,709	1,832	1,984
FEDERAL PRISON SYSTEM:			
SALARIES & EXPENSES.....	20,482	22,174	23,297
NATIONAL INSTITUTE OF CORRECTIONS.....	15	13	13
BUILDINGS & FACILITIES.....	8,631	5,888	8,292
TOTAL, FEDERAL PRISON SYSTEM.....	27,108	27,575	31,602
OFFICE OF JUSTICE PROGRAMS.....**	7,933	5,816	711
FEES & EXPENSES OF WITNESSES.....	619	639	658
INDEPENDENT COUNSEL.....			
CIVIL LIB. PUB. EDUCATION FUND.....			
PRE-MERGER FILING FEES.....			
PUBLIC SAFETY OFFICERS BENEFITS.....**	243		
ASSETS FOR FUND PERM BUDGET AUTHORITY.....	1,808	2,028	1,953
REVERSION CONTROL FEE.....	145	510	528
IMMIGRATION & NATURALIZATION FEES.....	1,002	1,130	1,265
CRIME VICTIMS FUND.....**	2,017	1,388	987
TOTAL DEPARTMENT OF JUSTICE.....	70,487	70,180	69,401

\*\* NOTE: For 1994 and 1995 grants are not by state, since historical information is not obligations.

DEPARTMENT OF JUSTICE  
GEOGRAPHIC DISTRIBUTION OF OBLIGATIONS  
(DOLLARS IN THOUSANDS)

## DELAWARE

APPROPRIATION	1993 ACTUALS	1994 ESTIMATE	1995 ESTIMATE
GENERAL ADMINISTRATION.....			
INSPECTOR GENERAL.....			
CRIME CONTROL FUND.....**			
WEED AND SEED FUND.....**	487		
QUANTICO TRAINING CENTER.....			
U.S. PAROLE COMMISSION.....			
GENERAL LEGAL ACTIVITIES:			
SOLICITOR GENERAL.....			
TAX DIVISION.....			
CRIMINAL DIVISION.....			
CIVIL DIVISION.....	71	70	70
ENVIRONMENT & NATURAL RESOURCES DIVISION.....			
OFFICE OF LEGAL COUNSEL.....			
CIVIL RIGHTS DIVISION.....			
INTERPOL.....			
LEGAL ACTIVITIES AUTOMATION.....			
SPECIAL COUNSEL FOR DISCRIMINATION.....			
TOTAL GENERAL LEGAL ACTIVITIES.....	71	70	70
ANTITRUST DIVISION.....			
US ATTORNEYS.....	2,644	2,811	2,759
FOREIGN CLAIMS SETTLEMENT COMMISSION.....			
US MARSHALS.....	743	825	949
SUPPORT OF U.S. PRISONERS.....	58	70	79
COMMUNITY RELATIONS SERVICE.....			
U.S. TRUSTEES.....	0	0	0
RADIATION COMPENSATION ADMIN EXP.....			
RADIATION COMPENSATION TRUST FUND.....			
ORGANIZED CRIME DRUG ENFORCEMENT.....	628	625	605
FEDERAL BUREAU OF INVESTIGATION.....	1,511	1,582	1,641
DRUG ENFORCEMENT ADMINISTRATION.....	107	107	109
IMMIGRATION & NATURALIZATION SERVICE.....			
FEDERAL PRISON SYSTEM:			
SALARIES & EXPENSES.....			
NATIONAL INSTITUTE OF CORRECTIONS.....			
BUILDINGS & FACILITIES.....			
TOTAL, FEDERAL PRISON SYSTEM.....	0	0	0
OFFICE OF JUSTICE PROGRAMS.....**	2,421	4,341	600
FEES & EXPENSES OF WITNESSES.....	331	342	352
INDEPENDENT COUNSEL.....			
CIVIL LIB. PUB. EDUCATION FUND.....			
PRE-MERGER FILING FEES.....			
PUBLIC SAFETY OFFICERS BENEFITS.....**			
ASSETS FOR FUND PERM BUDGET AUTHORITY.....	536	603	579
DIVERSION CONTROL FEE.....	232	816	841
IMMIGRATION & NATURALIZATION FEES.....	0	0	0
CRIME VICTIMS FUND.....**	979	768	365
TOTAL DEPARTMENT OF JUSTICE.....	10,748	12,980	8,949

\*\* NOTE: For 1994 and 1995 grants are not by state, since historical information is not obligations.

DEPARTMENT OF JUSTICE  
GEOGRAPHIC DISTRIBUTION OF OBLIGATION  
(DOLLARS IN THOUSANDS)

	FLORIDA		
APPROPRIATION	1993 ACTUALS	1994 ESTIMATE	1995 ESTIMATE
GENERAL ADMINISTRATION.....	2,331	2,848	2,990
INSPECTOR GENERAL.....	936	966	965
CRIME CONTROL FUND.....**			
WEED AND SEED FUND.....**			
QUANTICO TRAINING CENTER.....			
U.S. PAROLE COMMISSION.....			
GENERAL LEGAL ACTIVITIES:			
SOLICITOR GENERAL.....			
TAX DIVISION.....			
CRIMINAL DIVISION.....	78	80	80
CIVIL DIVISION.....	275	275	275
ENVIRONMENT & NATURAL RESOURCES DIV			
OFFICE OF LEGAL COUNSEL.....			
CIVIL RIGHTS DIVISION.....			
INTERPOL.....			
LEGAL ACTIVITIES AUTOMATION.....			
SPECIAL COUNSEL FOR DISCRIMINATION.....			
TOTAL GENERAL LEGAL ACTIVITIES.....	353	355	355
ANTITRUST DIVISION.....			
US ATTORNEYS.....	56,556	60,138	59,023
FOREIGN CLAIMS SETTLEMENT COMMISSION			
US MARSHALS.....	14,576	16,190	16,619
SUPPORT OF U.S. PRISONERS.....	25,600	30,236	33,963
COMMUNITY RELATIONS SERVICE.....	1,083	964	1,117
U.S. TRUSTEES.....	3,276	3,416	3,680
RADIATION COMPENSATION ADMIN EXP.....			
RADIATION COMPENSATION TRUST FUND.....	336	250	200
ORGANIZED CRIME DRUG ENFORCEMENT.....	41,626	41,256	39,666
FEDERAL BUREAU OF INVESTIGATION.....	78,443	82,151	85,177
DRUG ENFORCEMENT ADMINISTRATION.....	26,936	26,068	24,615
IMMIGRATION & NATURALIZATION SERVICE.....	22,013	23,599	25,559
FEDERAL PRISON SYSTEM:			
SALARIES & EXPENSES.....	100,024	116,092	142,227
NATIONAL INSTITUTE OF CORRECTIONS.....	65	55	55
BUILDINGS & FACILITIES.....	117,380	20,346	30,457
TOTAL, FEDERAL PRISON SYSTEM.....	217,449	136,495	172,739
OFFICE OF JUSTICE PROGRAMS.....**	26,796	26,506	2,665
FEES & EXPENSES OF WITNESSES.....	5,614	6,000	6,180
INDEPENDENT COUNSEL.....			
CIVIL LIB. PUB. EDUCATION FUND.....			
PRE-MERGER FILING FEES.....			
PUBLIC SAFETY OFFICERS BENEFITS.....**	872	247	
ASSETS FORF FUND PERM BUDGET AUTHORI	27,066	30,343	29,243
DIVERSION CONTROL FEE.....	726	2,550	2,629
IMMIGRATION & NATURALIZATION FEES.....	26,009	31,224	34,539
CRIME VICTIMS FUND.....**	6,466	5,295	3,436
TOTAL DEPARTMENT OF JUSTICE.....	567,299	527,099	547,600

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(DOLLARS IN THOUSANDS)

APPROPRIATION	GEORGIA		
	1993 ACTUALS	1994 ESTIMATE	1995 ESTIMATE
GENERAL ADMINISTRATION.....			
INSPECTOR GENERAL.....	1,368	1,397	1,424
CRIME CONTROL FUND.....**			
WEED AND SEED FUND.....**	487		
QUANTICO TRAINING CENTER.....			
U.S. PAROLE COMMISSION.....			
GENERAL LEGAL ACTIVITIES:			
SOLICITOR GENERAL.....			
TAX DIVISION.....			
CRIMINAL DIVISION.....	138	143	142
CIVIL DIVISION.....	262	280	280
ENVIRONMENT & NATURAL RESOURCES DIV			
OFFICE OF LEGAL COUNSEL.....			
CIVIL RIGHTS DIVISION.....			
INTERPOL.....			
LEGAL ACTIVITIES AUTOMATION.....			
SPECIAL COUNSEL FOR DISCRIMINATION.....			
TOTAL GENERAL LEGAL ACTIVITIES.....	420	423	422
ANTITRUST DIVISION.....	2,346	2,447	2,496
US ATTORNEYS.....	18,401	19,567	19,204
FOREIGN CLAIMS SETTLEMENT COMMISSION			
US MARSHALS.....	6,090	6,763	7,777
SUPPORT OF U.S. PRISONERS.....	4,602	5,608	6,299
COMMUNITY RELATIONS SERVICE.....	752	789	836
U.S. TRUSTEES.....	2,756	2,872	3,064
RADIATION COMPENSATION ADMIN EXP.....			
RADIATION COMPENSATION TRUST FUND.....	160		
ORGANIZED CRIME DRUG ENFORCEMENT.....	7,314	7,257	7,025
FEDERAL BUREAU OF INVESTIGATION.....	26,486	27,655	29,084
DRUG ENFORCEMENT ADMINISTRATION.....	8,639	8,221	7,462
IMMIGRATION & NATURALIZATION SERVICE.....	5,534	5,932	6,425
FEDERAL PRISON SYSTEM:			
SALARIES & EXPENSES.....	77,714	87,615	96,794
NATIONAL INSTITUTE OF CORRECTIONS.....	25	21	21
BUILDINGS & FACILITIES.....	11,558	7,258	23,187
TOTAL, FEDERAL PRISON SYSTEM.....	89,297	94,894	120,002
OFFICE OF JUSTICE PROGRAMS.....**	13,112	11,459	1,660
FEES & EXPENSES OF WITNESSES.....	1,899	1,959	2,051
INDEPENDENT COUNSEL.....			
CIVIL LIB. PUB. EDUCATION FUND.....			
PRE-MERGER FILING FEES.....	671	1,424	1,510
PUBLIC SAFETY OFFICERS BENEFITS.....**	614	247	
ASSETS FOR FUND PERM BUDGET AUTHORI	16,029	18,068	17,347
DIVERSION CONTROL FEE.....	349	1,224	1,262
IMMIGRATION & NATURALIZATION FEES.....	4,611	5,145	5,696
CRIME VICTIMS FUND.....**	1,735	1,676	1,820
TOTAL DEPARTMENT OF JUSTICE.....	213,860	225,227	242,696

\*\* NOTE: For 1994 and 1995 grants are not by state, since historical information is not obligations.

DEPARTMENT OF JUSTICE  
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(DOLLARS IN THOUSANDS)

	HAWAII		
	1993 ACTUALS	1994 ESTIMATE	1995 ESTIMATE
APPROPRIATION			
GENERAL ADMINISTRATION.....			
INSPECTOR GENERAL.....			
CRIME CONTROL FUND.....**			
WEED AND SEED FUND.....**			
QUANTICO TRAINING CENTER.....			
U.S. PAROLE COMMISSION.....			
GENERAL LEGAL ACTIVITIES:			
SOLICITOR GENERAL.....			
TAX DIVISION.....			
CRIMINAL DIVISION.....	2	3	3
CIVIL DIVISION.....	64	70	70
ENVIRONMENT & NATURAL RESOURCES DIV.			
OFFICE OF LEGAL COUNSEL.....			
CIVIL RIGHTS DIVISION.....			
INTERPOL.....			
LEGAL ACTIVITIES AUTOMATION.....			
SPECIAL COUNSEL FOR DISCRIMINATION.....			
TOTAL GENERAL LEGAL ACTIVITIES.....	66	73	73
ANTITRUST DIVISION.....			
US ATTORNEYS.....	4,666	4,963	4,691
FOREIGN CLAIMS SETTLEMENT COMMISSION			
US MARSHALS.....	2,475	2,749	3,161
SUPPORT OF U.S. PRISONERS.....	1,414	1,724	1,936
COMMUNITY RELATIONS SERVICE.....			
U.S. TRUSTEES.....	614	639	669
RADIATION COMPENSATION ADMIN EXP.....			
RADIATION COMPENSATION TRUST FUND.....	367	200	100
ORGANIZED CRIME DRUG ENFORCEMENT.....	1,074	1,069	1,034
FEDERAL BUREAU OF INVESTIGATION.....	10,199	10,061	11,074
DRUG ENFORCEMENT ADMINISTRATION.....	2,366	2,316	2,204
IMMIGRATION & NATURALIZATION SERVICE.....	2,499	2,679	2,901
FEDERAL PRISON SYSTEM:			
SALARIES & EXPENSES.....			
NATIONAL INSTITUTE OF CORRECTIONS.....			
BUILDINGS & FACILITIES.....	301	5,300	500
TOTAL FEDERAL PRISON SYSTEM.....	301	5,300	500
OFFICE OF JUSTICE PROGRAMS.....**	3,760	2,953	600
FEES & EXPENSES OF WITNESSES.....	957	966	1,017
INDEPENDENT COUNSEL.....			
CIVIL LIB. PUB. EDUCATION FUND.....			
PRE-MERGER FILING FEES.....			
PUBLIC SAFETY OFFICERS BENEFITS.....**			
ASSETS FORF FUND PERM BUDGET AUTHORI	6,066	6,671	6,591
DIVERSION CONTROL FEE.....	58	204	210
IMMIGRATION & NATURALIZATION FEES.....	9,792	10,674	11,960
CRIME VICTIMS FUND.....**	732	706	476
TOTAL DEPARTMENT OF JUSTICE.....	47,466	55,009	49,439

\*\* NOTE: For 1994 and 1995 grants are not by state, since historical information is not obligations.

DEPARTMENT OF JUSTICE  
GEOGRAPHIC DISTRIBUTION OF OBLIGATIONS  
(DOLLARS IN THOUSANDS)

	IDAHO		
	1993 ACTUALS	1994 ESTIMATE	1995 ESTIMATE
APPROPRIATION			
GENERAL ADMINISTRATION.....			
INSPECTOR GENERAL.....			
CRIME CONTROL FUND.....**			
WEED AND SEED FUND.....**			
QUANTICO TRAINING CENTER.....			
U.S. PAROLE COMMISSION.....			
GENERAL LEGAL ACTIVITIES:			
SOLICITOR GENERAL.....			
TAX DIVISION.....			
CRIMINAL DIVISION.....	12	13	13
CIVIL DIVISION.....	11	10	10
ENVIRONMENT & NATURAL RESOURCES DIV.			
OFFICE OF LEGAL COUNSEL.....			
CIVIL RIGHTS DIVISION.....			
INTERPOL.....			
LEGAL ACTIVITIES AUTOMATION.....			
SPECIAL COUNSEL FOR DISCRIMINATION.....			
TOTAL GENERAL LEGAL ACTIVITIES.....	23	23	23
ANTITRUST DIVISION.....			
US ATTORNEYS.....	2,920	3,105	3,047
FOREIGN CLAIMS SETTLEMENT COMMISSION			
US MARSHALS.....	1,115	1,236	1,424
SUPPORT OF U.S. PRISONERS.....	420	512	575
COMMUNITY RELATIONS SERVICE.....			
U.S. TRUSTEES.....	489	509	549
RADIATION COMPENSATION ADMIN EXP.....			
RADIATION COMPENSATION TRUST FUND.....	480	300	200
ORGANIZED CRIME DRUG ENFORCEMENT.....	637	633	612
FEDERAL BUREAU OF INVESTIGATION.....	7,726	4,707	5,263
DRUG ENFORCEMENT ADMINISTRATION.....	280	280	284
IMMIGRATION & NATURALIZATION SERVICE.....	1,627	1,744	1,869
FEDERAL PRISON SYSTEM:			
SALARIES & EXPENSES.....			
NATIONAL INSTITUTE OF CORRECTIONS.....	25	21	21
BUILDINGS & FACILITIES.....			
TOTAL, FEDERAL PRISON SYSTEM.....	25	21	21
OFFICE OF JUSTICE PROGRAMS.....**	3,047	2,891	800
FEES & EXPENSES OF WITNESSES.....	595	614	632
INDEPENDENT COUNSEL.....			
CIVIL LIB. PUB. EDUCATION FUND.....			
PRE-MERGER FILING FEES.....			
PUBLIC SAFETY OFFICERS BENEFITS.....**	120		
ASSETS FOR FUND PERM BUDGET AUTHORITY	289	322	311
DIVERSION CONTROL FEE.....			
IMMIGRATION & NATURALIZATION FEES.....	347	395	446
CRIME VICTIMS FUND.....**	751	624	456
TOTAL DEPARTMENT OF JUSTICE.....	20,893	18,118	16,332

\*\* NOTE: For 1994 and 1995 grants are not by state, since historical information is not obligations.

DEPARTMENT OF JUSTICE  
GEOGRAPHIC DISTRIBUTION OF OBLIGATIONS  
(DOLLARS IN THOUSANDS)

## ILLINOIS

APPROPRIATION	1993 ACTUALS	1994 ESTIMATE	1995 ESTIMATE
GENERAL ADMINISTRATION.....	1,385	1,424	1,495
INSPECTOR GENERAL.....	1,799	1,853	1,869
CRIME CONTROL FUND.....**			
WEED AND SEED FUND.....**	487		
QUANTICO TRAINING CENTER.....			
U.S. PAROLE COMMISSION.....			
GENERAL LEGAL ACTIVITIES:			
SOLICITOR GENERAL.....			
TAX DIVISION.....			
CRIMINAL DIVISION.....	66	66	66
CIVIL DIVISION.....	177	175	175
ENVIRONMENT & NATURAL RESOURCES DIV.	91	101	111
OFFICE OF LEGAL COUNSEL.....			
CIVIL RIGHTS DIVISION.....			
INTERPOL.....			
LEGAL ACTIVITIES AUTOMATION.....			
SPECIAL COUNSEL FOR DISCRIMINATION.....			
TOTAL GENERAL LEGAL ACTIVITIES.....	334	344	354
ANTITRUST DIVISION.....	2,736	2,854	2,911
US ATTORNEYS.....	30,499	32,431	31,830
FOREIGN CLAIMS SETTLEMENT COMMISSION			
US MARSHALS.....	7,171	7,984	9,158
SUPPORT OF U.S. PRISONERS.....	5,438	6,627	7,444
COMMUNITY RELATIONS SERVICE.....	1,148	1,140	843
U.S. TRUSTEES.....	3,305	3,445	3,711
RADIATION COMPENSATION ADMIN EXP.....			
RADIATION COMPENSATION TRUST FUND.....			
ORGANIZED CRIME DRUG ENFORCEMENT.....	12,832	12,697	12,275
FEDERAL BUREAU OF INVESTIGATION.....	63,711	66,723	69,181
DRUG ENFORCEMENT ADMINISTRATION.....	15,070	14,374	13,120
IMMIGRATION & NATURALIZATION SERVICE.....	11,583	12,418	13,448
FEDERAL PRISON SYSTEM:			
SALARIES & EXPENSES.....	39,873	44,386	114,025
NATIONAL INSTITUTE OF CORRECTIONS.....	50	42	42
BUILDINGS & FACILITIES.....	8,763	5,476	12,753
TOTAL, FEDERAL PRISON SYSTEM.....	48,686	49,904	126,820
OFFICE OF JUSTICE PROGRAMS.....**	21,448	26,966	2,794
FEES & EXPENSES OF WITNESSES.....	2,218	2,269	2,358
INDEPENDENT COUNSEL.....			
CIVIL LIB. PUB. EDUCATION FUND.....			
PRE-MERGER FILING FEES.....	1,018	1,661	1,760
PUBLIC SAFETY OFFICERS BENEFITS.....**	648	622	
ASSETS FOR FUND PERM BUDGET AUTHORITY.....	10,552	11,818	11,391
DIVERSION CONTROL FEE.....	581	2,040	2,103
IMMIGRATION & NATURALIZATION FEES.....	7,931	8,840	9,775
CRIME VICTIMS FUND.....**	3,570	4,806	2,990
TOTAL DEPARTMENT OF JUSTICE.....	254,326	275,240	327,650

\*\* NOTE: For 1994 and 1995 grants are not by state, since historical information is not available.

DEPARTMENT OF JUSTICE  
GEOGRAPHIC DISTRIBUTION OF OBLIGATION  
(DOLLARS IN THOUSANDS)

	INDIANA		
	1993 ACTUALS	1994 ESTIMATE	1995 ESTIMATE
APPROPRIATION			
GENERAL ADMINISTRATION.....			
INSPECTOR GENERAL.....			
CRIME CONTROL FUND.....**			
WEED AND SEED FUND.....**			
QUANTICO TRAINING CENTER.....			
U.S. PAROLE COMMISSION.....			
GENERAL LEGAL ACTIVITIES:			
SOLICITOR GENERAL.....			
TAX DIVISION.....			
CRIMINAL DIVISION.....	4	4	4
CIVIL DIVISION.....	134	130	130
ENVIRONMENT & NATURAL RESOURCES DIVR			
OFFICE OF LEGAL COUNSEL.....			
CIVIL RIGHTS DIVISION.....			
INTERPOL.....			
LEGAL ACTIVITIES AUTOMATION.....			
SPECIAL COUNSEL FOR DISCRIMINATION.....			
TOTAL GENERAL LEGAL ACTIVITIES.....	138	134	134
ANTITRUST DIVISION.....			
US ATTORNEYS.....	8,251	8,774	8,611
FOREIGN CLAIMS SETTLEMENT COMMISSION			
US MARSHALS.....	2,851	3,166	3,641
SUPPORT OF U.S. PRISONERS.....	1,464	1,809	2,032
COMMUNITY RELATIONS SERVICE.....			
U.S. TRUSTEES.....	2,547	2,654	2,650
RADIATION COMPENSATION ADMIN EXP.....			
RADIATION COMPENSATION TRUST FUND.....	20		
ORGANIZED CRIME DRUG ENFORCEMENT.....	2,061	2,045	1,978
FEDERAL BUREAU OF INVESTIGATION.....	11,636	12,305	12,652
DRUG ENFORCEMENT ADMINISTRATION.....	1,568	1,349	932
IMMIGRATION & NATURALIZATION SERVICE.....	20	22	25
FEDERAL PRISON SYSTEM:			
SALARIES & EXPENSES.....	32,168	34,881	36,648
NATIONAL INSTITUTE OF CORRECTIONS.....			
BUILDINGS & FACILITIES.....	3,062	4,026	9,704
TOTAL, FEDERAL PRISON SYSTEM.....	35,270	38,909	46,352
OFFICE OF JUSTICE PROGRAMS.....**	9,180	12,030	1,348
FEES & EXPENSES OF WITNESSES.....	531	658	864
INDEPENDENT COUNSEL.....			
CIVIL LIB. PUB. EDUCATION FUND.....			
PRE-MERGER FILING FEES.....			
PUBLIC SAFETY OFFICERS BENEFITS.....**	247	247	
ASSETS FOR FUND PERM BUDGET AUTHORI	2,708	3,048	2,929
DIVERSION CONTROL FEE.....	174	612	631
IMMIGRATION & NATURALIZATION FEES.....	133	148	163
CRIME VICTIMS FUND.....**	1,957	1,860	1,556
TOTAL DEPARTMENT OF JUSTICE.....	81,268	90,080	86,929

\*\* NOTE: For 1994 and 1995 grants are not by state, since historical information is not obligations.

DEPARTMENT OF JUSTICE  
GEOGRAPHIC DISTRIBUTION OF OBLIGATIONS  
(DOLLARS IN THOUSANDS)

IOWA			
	1993 ACTUALS	1994 ESTIMATE	1995 ESTIMATE
APPROPRIATION			
GENERAL ADMINISTRATION.....			
INSPECTOR GENERAL.....			
CRIME CONTROL FUND.....**			
WEED AND SEED FUND.....**			
QUANTICO TRAINING CENTER.....			
U.S. PAROLE COMMISSION.....			
GENERAL LEGAL ACTIVITIES:			
SOLICITOR GENERAL.....			
TAX DIVISION.....			
CRIMINAL DIVISION.....			
CIVIL DIVISION.....	25	25	25
ENVIRONMENT & NATURAL RESOURCES DIVISION.....			
OFFICE OF LEGAL COUNSEL.....			
CIVIL RIGHTS DIVISION.....			
INTERPOL.....			
LEGAL ACTIVITIES AUTOMATION.....			
SPECIAL COUNSEL FOR DISCRIMINATION.....			
TOTAL GENERAL LEGAL ACTIVITIES.....	25	25	25
ANTITRUST DIVISION.....			
US ATTORNEYS.....	6,146	6,535	6,414
FOREIGN CLAIMS SETTLEMENT COMMISSION.....			
US MARSHALS.....	1,973	2,191	2,519
SUPPORT OF U.S. PRISONERS.....	1,778	2,167	2,434
COMMUNITY RELATIONS SERVICE.....			
U.S. TRUSTEES.....	1,254	1,306	1,407
RADIATION COMPENSATION ADMIN EXP.....			
RADIATION COMPENSATION TRUST FUND.....	100		
ORGANIZED CRIME DRUG ENFORCEMENT.....	1,648	1,632	1,580
FEDERAL BUREAU OF INVESTIGATION.....	3,400	3,560	3,691
DRUG ENFORCEMENT ADMINISTRATION.....	533	463	325
IMMIGRATION & NATURALIZATION SERVICE.....			
FEDERAL PRISON SYSTEM:			
SALARIES & EXPENSES.....			
NATIONAL INSTITUTE OF CORRECTIONS.....	7	6	6
BUILDINGS & FACILITIES.....			
TOTAL, FEDERAL PRISON SYSTEM.....	7	6	6
OFFICE OF JUSTICE PROGRAMS.....**	6,204	5,962	678
FEES & EXPENSES OF WITNESSES.....	607	626	644
INDEPENDENT COUNSEL.....			
CIVIL LIB. PUB. EDUCATION FUND.....			
PRE-MERGER FILING FEES.....			
PUBLIC SAFETY OFFICERS BENEFITS.....**	247	251	
ASSETS FOR FUND PERM BUDGET AUTHORITY.....	1,794	2,024	1,942
DIVERSION CONTROL FEE.....	56	204	210
IMMIGRATION & NATURALIZATION FEES.....	0	0	0
CRIME VICTIMS FUND.....**	1,361	1,333	675
TOTAL DEPARTMENT OF JUSTICE.....	27,135	26,265	22,750

\*\* NOTE: For 1994 and 1995 grants are not by state, since historical information is not available.

DEPARTMENT OF JUSTICE  
GEOGRAPHIC DISTRIBUTION OF OBLIGATION  
(DOLLARS IN THOUSANDS)

## KANSAS

	1993 ACTUALS	1994 ESTIMATE	1995 ESTIMATE
APPROPRIATION			
GENERAL ADMINISTRATION.....			
INSPECTOR GENERAL.....			
CRIME CONTROL FUND.....**			
WEED AND SEED FUND.....**			
QUANTICO TRAINING CENTER.....			
U.S. PAROLE COMMISSION.....			
GENERAL LEGAL ACTIVITIES:			
SOLICITOR GENERAL.....			
TAX DIVISION.....			
CRIMINAL DIVISION.....			
CIVIL DIVISION.....	51	50	50
ENVIRONMENT & NATURAL RESOURCES DIVISION.....			
OFFICE OF LEGAL COUNSEL.....			
CIVIL RIGHTS DIVISION.....			
INTERPOL.....			
LEGAL ACTIVITIES AUTOMATION.....			
SPECIAL COUNSEL FOR DISCRIMINATION.....			
TOTAL GENERAL LEGAL ACTIVITIES.....	51	50	50
ANTITRUST DIVISION.....			
US ATTORNEYS.....	5,949	6,326	6,209
FOREIGN CLAIMS SETTLEMENT COMMISSION.....			
US MARSHALS.....	1,634	1,614	2,067
SUPPORT OF U.S. PRISONERS.....	8,567	10,440	11,727
COMMUNITY RELATIONS SERVICE.....			
U.S. TRUSTEES.....	1,264	1,336	1,441
RADIATION COMPENSATION ADMIN EXP.....			
RADIATION COMPENSATION TRUST FUND.....	19		
ORGANIZED CRIME DRUG ENFORCEMENT.....	173	172	167
FEDERAL BUREAU OF INVESTIGATION.....	2,015	2,110	2,186
DRUG ENFORCEMENT ADMINISTRATION.....	1,913	1,670	1,191
IMMIGRATION & NATURALIZATION SERVICE.....	439	470	509
FEDERAL PRISON SYSTEM:			
SALARIES & EXPENSES.....	55,376	60,012	63,053
NATIONAL INSTITUTE OF CORRECTIONS.....			
BUILDINGS & FACILITIES.....	6,754	5,167	10,670
TOTAL, FEDERAL PRISON SYSTEM.....	64,132	65,199	61,723
OFFICE OF JUSTICE PROGRAMS.....**	4,717	5,504	625
FEES & EXPENSES OF WITNESSES.....	616	635	655
INDEPENDENT COUNSEL.....			
CIVIL LIB. PUB. EDUCATION FUND.....			
PRE-MERGER FILING FEES.....			
PUBLIC SAFETY OFFICERS BENEFITS.....**	124		
ASSETS FOR FUND PERM BUDGET AUTHORITY.....	1,224	1,371	1,322
DIVERSION CONTROL FEE.....	203	714	736
IMMIGRATION & NATURALIZATION FEES.....	226	251	277
CRIME VICTIMS FUND.....**	1,519	1,641	805
TOTAL DEPARTMENT OF JUSTICE.....	94,805	99,795	111,712

\*\* NOTE: For 1994 and 1995 grants are not by state, since historical information is not obligations.

DEPARTMENT OF JUSTICE  
GEOGRAPHIC DISTRIBUTION OF OBLIGAT  
(DOLLARS IN THOUSANDS)

## KENTUCKY

	1993 ACTUALS	1994 ESTIMATE	1995 ESTIMATE
APPROPRIATION			
GENERAL ADMINISTRATION.....			
INSPECTOR GENERAL.....			
CRIME CONTROL FUND.....**			
WEED AND SEED FUND.....**			
QUANTICO TRAINING CENTER.....			
U.S. PAROLE COMMISSION.....			
GENERAL LEGAL ACTIVITIES:			
SOLICITOR GENERAL.....			
TAX DIVISION.....			
CRIMINAL DIVISION.....	34	35	35
CIVIL DIVISION.....	15	15	15
ENVIRONMENT & NATURAL RESOURCES DIV.			
OFFICE OF LEGAL COUNSEL.....			
CIVIL RIGHTS DIVISION.....			
INTERPOL.....			
LEGAL ACTIVITIES AUTOMATION.....			
SPECIAL COUNSEL FOR DISCRIMINATION.....			
TOTAL GENERAL LEGAL ACTIVITIES.....	49	50	50
ANTITRUST DIVISION.....			
US ATTORNEYS.....	10,105	10,745	10,546
FOREIGN CLAIMS SETTLEMENT COMMISSION			
US MARSHALS.....	2,908	3,318	3,815
SUPPORT OF U.S. PRISONERS.....	2,106	2,568	2,882
COMMUNITY RELATIONS SERVICE.....			
U.S. TRUSTEES.....	1,221	1,272	1,370
RADIATION COMPENSATION ADMIN EXP.....			
RADIATION COMPENSATION TRUST FUND.....			
ORGANIZED CRIME DRUG ENFORCEMENT.....	1,952	1,934	1,871
FEDERAL BUREAU OF INVESTIGATION.....	10,199	10,681	11,074
DRUG ENFORCEMENT ADMINISTRATION.....	815	878	904
IMMIGRATION & NATURALIZATION SERVICE.....	412	442	478
FEDERAL PRISON SYSTEM:			
SALARIES & EXPENSES.....	71,860	86,370	88,095
NATIONAL INSTITUTE OF CORRECTIONS.....	20	17	17
BUILDINGS & FACILITIES.....	7,535	6,988	12,884
TOTAL, FEDERAL PRISON SYSTEM.....	79,415	93,375	102,606
OFFICE OF JUSTICE PROGRAMS.....**	7,789	7,893	889
FEE & EXPENSES OF WITNESSES.....	1,443	1,489	1,533
INDEPENDENT COUNSEL.....			
CIVIL LIB. PUB. EDUCATION FUND.....			
PRE-MERGER FILING FEES.....			
PUBLIC SAFETY OFFICERS BENEFITS.....**	981		
ASSETS FOR FUND PERM BUDGET AUTHORITY.....	3,236	3,650	3,503
DIVERSION CONTROL FEE.....	116	408	421
IMMIGRATION & NATURALIZATION FEES.....	232	265	283
CRIME VICTIMS FUND.....**	1,424	1,292	1,101
TOTAL DEPARTMENT OF JUSTICE.....	124,443	140,056	142,826

\*\* NOTE: For 1994 and 1995 grants are not by state, since historical information is not obligations.

DEPARTMENT OF JUSTICE  
GEOGRAPHIC DISTRIBUTION OF OBLIGATIONS  
(DOLLARS IN THOUSANDS)

## LOUISIANA

APPROPRIATION	1993 ACTUALS	1994 ESTIMATE	1995 ESTIMATE
GENERAL ADMINISTRATION .....	683	755	793
INSPECTOR GENERAL .....			
CRIME CONTROL FUND .....	**		
WEED AND SEED FUND .....	**		
QUANTICO TRAINING CENTER .....			
U.S. PAROLE COMMISSION .....			
GENERAL LEGAL ACTIVITIES:			
SOLICITOR GENERAL .....			
TAX DIVISION .....			
CRIMINAL DIVISION .....	57	59	58
CIVIL DIVISION .....	222	225	225
ENVIRONMENT & NATURAL RESOURCES DIVISION .....			
OFFICE OF LEGAL COUNSEL .....			
CIVIL RIGHTS DIVISION .....			
INTERPOL .....			
LEGAL ACTIVITIES AUTOMATION .....			
SPECIAL COUNSEL FOR DISCRIMINATION .....			
TOTAL GENERAL LEGAL ACTIVITIES .....	279	284	283
ANTITRUST DIVISION .....			
US ATTORNEYS .....	14,286	15,191	14,909
FOREIGN CLAIMS SETTLEMENT COMMISSION .....			
US MARSHALS .....	4,971	5,521	6,349
SUPPORT OF U.S. PRISONERS .....	3,777	4,803	5,170
COMMUNITY RELATIONS SERVICE .....			
U.S. TRUSTEES .....	2,207	2,300	2,478
RADIATION COMPENSATION ADMIN EXP. ....			
RADIATION COMPENSATION TRUST FUND .....	19		
ORGANIZED CRIME DRUG ENFORCEMENT .....	4,854	4,826	4,666
FEDERAL BUREAU OF INVESTIGATION .....	19,642	20,571	21,328
DRUG ENFORCEMENT ADMINISTRATION .....	7,736	7,388	6,763
IMMIGRATION & NATURALIZATION SERVICE .....	11,273	12,065	13,069
FEDERAL PRISON SYSTEM:			
SALARIES & EXPENSES .....	46,253	50,123	52,663
NATIONAL INSTITUTE OF CORRECTIONS .....			
BUILDINGS & FACILITIES .....	2,140	500	4,193
TOTAL, FEDERAL PRISON SYSTEM .....	48,393	50,623	56,856
OFFICE OF JUSTICE PROGRAMS .....	6,349	7,203	1,142
FEEs & EXPENSES OF WITNESSES .....	1,486	1,534	1,580
INDEPENDENT COUNSEL .....			
CIVIL LIB. PUB. EDUCATION FUND .....			
PRE-MERGER FILING FEES .....			
PUBLIC SAFETY OFFICERS BENEFITS .....	1,232		
ASSETS FOR FUND PERM BUDGET AUTHORITY .....	3,646	4,275	4,139
DIVERSION CONTROL FEE .....	291	1,020	1,052
IMMIGRATION & NATURALIZATION FEES .....	1,995	2,231	2,478
CRIME VICTIMS FUND .....	1,558	1,469	1,229
TOTAL DEPARTMENT OF JUSTICE .....	136,877	141,879	144,302

\*\* NOTE: For 1994 and 1995 grants are not by state, since historical information is not obligations.

DEPARTMENT OF JUSTICE  
GEOGRAPHIC DISTRIBUTION OF OBLIGAT  
(DOLLARS IN THOUSANDS)

	MAINE		
	1993 ACTUALS	1994 ESTIMATE	1995 ESTIMATE
APPROPRIATION			
GENERAL ADMINISTRATION.....			
INSPECTOR GENERAL.....			
CRIME CONTROL FUND.....**			
WEED AND SEED FUND.....**			
QUANTICO TRAINING CENTER.....			
U.S. PAROLE COMMISSION.....			
GENERAL LEGAL ACTIVITIES:			
SOLICITOR GENERAL.....			
TAX DIVISION.....			
CRIMINAL DIVISION.....			
CIVIL DIVISION.....	30	30	30
ENVIRONMENT & NATURAL RESOURCES DIVK			
OFFICE OF LEGAL COUNSEL.....			
CIVIL RIGHTS DIVISION.....			
INTERPOL.....			
LEGAL ACTIVITIES AUTOMATION.....			
SPECIAL COUNSEL FOR DISCRIMINATION.....			
TOTAL GENERAL LEGAL ACTIVITIES.....	30	30	30
ANTITRUST DIVISION.....			
US ATTORNEYS.....	3,714	3,940	3,876
FOREIGN CLAIMS SETTLEMENT COMMISSION			
US MARSHALS.....	1,147	1,274	1,485
SUPPORT OF U.S. PRISONERS.....	914	1,114	1,251
COMMUNITY RELATIONS SERVICE.....			
U.S. TRUSTEES.....	308	316	341
RADIATION COMPENSATION ADMIN EXP.....			
RADIATION COMPENSATION TRUST FUND.....			
ORGANIZED CRIME DRUG ENFORCEMENT.....	803	799	773
FEDERAL BUREAU OF INVESTIGATION.....	1,007	1,055	1,094
DRUG ENFORCEMENT ADMINISTRATION.....	328	328	330
IMMIGRATION & NATURALIZATION SERVICE....	8,185	8,773	9,503
FEDERAL PRISON SYSTEM:			
SALARIES & EXPENSES.....			
NATIONAL INSTITUTE OF CORRECTIONS.....			
BUILDINGS & FACILITIES.....			
TOTAL, FEDERAL PRISON SYSTEM.....	0	0	0
OFFICE OF JUSTICE PROGRAMS.....**	3,971	3,403	600
FEES & EXPENSES OF WITNESSES.....	543	561	578
INDEPENDENT COUNSEL.....			
CIVIL LIB. PUB. EDUCATION FUND.....			
PRE-MERGER FILING FEES.....			
PUBLIC SAFETY OFFICERS BENEFITS.....**			
ASSETS FOR FUND PERM BUDGET AUTHORI	364	408	393
DIVERSION CONTROL FEE.....			
IMMIGRATION & NATURALIZATION FEES.....	1,955	2,181	2,413
CRIME VICTIMS FUND.....**	477	459	496
TOTAL DEPARTMENT OF JUSTICE.....	23,739	24,740	23,143

\*\* NOTE: For 1994 and 1995 grants are not by state, since historical information is not obligations.

DEPARTMENT OF JUSTICE  
GEOGRAPHIC DISTRIBUTION OF OBLIGATIONS  
(DOLLARS IN THOUSANDS)

## MARYLAND

APPROPRIATION	1993 ACTUALS	1994 ESTIMATE	1995 ESTIMATE
GENERAL ADMINISTRATION.....	800	872	914
INSPECTOR GENERAL.....			
CRIME CONTROL FUND.....**			
WEED AND SEED FUND.....**			
QUANTICO TRAINING CENTER.....			
U.S. PAROLE COMMISSION.....	5,663	5,957	5,845
<b>GENERAL LEGAL ACTIVITIES:</b>			
SOLICITOR GENERAL.....			
TAX DIVISION.....			
CRIMINAL DIVISION.....	248	256	256
CIVIL DIVISION.....	28,006	28,975	29,566
ENVIRONMENT & NATURAL RESOURCES DIV.			
OFFICE OF LEGAL COUNSEL.....			
CIVIL RIGHTS DIVISION.....			
INTERPOL.....			
LEGAL ACTIVITIES AUTOMATION.....			
SPECIAL COUNSEL FOR DISCRIMINATION.....			
TOTAL GENERAL LEGAL ACTIVITIES.....	29,254	29,231	29,852
<b>ANTITRUST DIVISION.....</b>			
US ATTORNEYS.....	9,499	10,101	9,914
FOREIGN CLAIMS SETTLEMENT COMMISSION			
US MARSHALS.....	2,977	3,308	3,802
SUPPORT OF U.S. PRISONERS.....	4,664	5,708	6,412
COMMUNITY RELATIONS SERVICE.....			
U.S. TRUSTEES.....	1,653	1,931	2,080
RADIATION COMPENSATION ADMIN EXP.....			
RADIATION COMPENSATION TRUST FUND.....	35		
ORGANIZED CRIME DRUG ENFORCEMENT.....	6,786	6,720	6,505
FEDERAL BUREAU OF INVESTIGATION.....	25,666	26,900	27,891
DRUG ENFORCEMENT ADMINISTRATION.....	2,682	2,508	2,179
IMMIGRATION & NATURALIZATION SERVICE.....	4,816	5,163	5,591
<b>FEDERAL PRISON SYSTEM:</b>			
SALARIES & EXPENSES.....	24,878	27,546	64,670
NATIONAL INSTITUTE OF CORRECTIONS.....	1,297	1,100	1,100
BUILDINGS & FACILITIES.....	3,748	1,187	7,666
TOTAL, FEDERAL PRISON SYSTEM.....	29,923	29,833	73,436
OFFICE OF JUSTICE PROGRAMS.....**	26,562	21,229	11,364
FEES & EXPENSES OF WITNESSES.....	811	837	861
INDEPENDENT COUNSEL.....			
CIVIL LIB. PUB. EDUCATION FUND.....			
PRE-MERGER FILING FEES.....			
PUBLIC SAFETY OFFICERS BENEFITS.....**	490	124	
ASSETS FOR FUND PERM BUDGET AUTHORITY.....	3,797	4,261	4,102
DIVERSION CONTROL FEE.....	145	510	526
IMMIGRATION & NATURALIZATION FEES.....	4,845	5,199	5,778
CRIME VICTIMS FUND.....**	1,717	1,477	1,337
<b>TOTAL DEPARTMENT OF JUSTICE.....</b>	<b>164,025</b>	<b>161,667</b>	<b>196,389</b>

\*\* NOTE: For 1994 and 1995 grants are not by state, since historical information is not obligations.

DEPARTMENT OF JUSTICE  
GEOGRAPHIC DISTRIBUTION OF OBLIGATIONS  
(DOLLARS IN THOUSANDS)

	MASS.		
	1993 ACTUALS	1994 ESTIMATE	1995 ESTIMATE
APPROPRIATION			
GENERAL ADMINISTRATION.....	1,145	1,204	1,275
INSPECTOR GENERAL.....			
CRIME CONTROL FUND.....**			
WEED AND SEED FUND.....**	487		
QUANTICO TRAINING CENTER.....			
U.S. PAROLE COMMISSION.....			
GENERAL LEGAL ACTIVITIES:			
SOLICITOR GENERAL.....			
TAX DIVISION.....			
CRIMINAL DIVISION.....	305	315	315
CIVIL DIVISION.....	426	450	450
ENVIRONMENT & NATURAL RESOURCES DIV.....	12	0	0
OFFICE OF LEGAL COUNSEL.....			
CIVIL RIGHTS DIVISION.....			
INTERPOL.....			
LEGAL ACTIVITIES AUTOMATION.....			
SPECIAL COUNSEL FOR DISCRIMINATION.....			
TOTAL GENERAL LEGAL ACTIVITIES.....	743	765	765
ANTITRUST DIVISION.....			
US ATTORNEYS.....	13,855	14,733	14,460
FOREIGN CLAIMS SETTLEMENT COMMISSION.....			
US MARSHALS.....	3,199	3,553	4,086
SUPPORT OF U.S. PRISONERS.....	4,804	5,811	6,303
COMMUNITY RELATIONS SERVICE.....	473	496	526
U.S. TRUSTEES.....	1,919	1,999	2,154
RADIATION COMPENSATION ADMIN EXP.....			
RADIATION COMPENSATION TRUST FUND.....	38		
ORGANIZED CRIME DRUG ENFORCEMENT.....	6,407	6,367	6,167
FEDERAL BUREAU OF INVESTIGATION.....	30,219	31,647	32,813
DRUG ENFORCEMENT ADMINISTRATION.....	6,713	6,295	7,536
IMMIGRATION & NATURALIZATION SERVICE.....	6,160	6,746	9,474
FEDERAL PRISON SYSTEM:			
SALARIES & EXPENSES.....	0	0	16,489
NATIONAL INSTITUTE OF CORRECTIONS.....			
BUILDINGS & FACILITIES.....	122	13,000	77,500
TOTAL, FEDERAL PRISON SYSTEM.....	122	13,000	93,989
OFFICE OF JUSTICE PROGRAMS.....**	16,835	12,562	1,277
FEES & EXPENSES OF WITNESSES.....	1,479	1,526	1,571
INDEPENDENT COUNSEL.....			
CIVIL LIB. PUB. EDUCATION FUND.....			
PRE-MERGER FILING FEES.....			
PUBLIC SAFETY OFFICERS BENEFITS.....**	229	124	
ASSETS FOR FUND PERM BUDGET AUTHORITY.....	6,542	7,666	7,366
DIVERSION CONTROL FEE.....	349	1,224	1,262
IMMIGRATION & NATURALIZATION FEES.....	4,946	5,515	6,102
CRIME VICTIMS FUND.....**	2,226	2,397	1,639
TOTAL DEPARTMENT OF JUSTICE.....	112,990	127,434	198,789

\*\* NOTE: For 1994 and 1995 grants are not by state, since historical information is not obligations.

DEPARTMENT OF JUSTICE  
GEOGRAPHIC DISTRIBUTION OF OBLIGATIONS  
(DOLLARS IN THOUSANDS)

## MICHIGAN

	1993 ACTUALS	1994 ESTIMATE	1995 ESTIMATE
APPROPRIATION			
GENERAL ADMINISTRATION.....			
INSPECTOR GENERAL.....			
CRIME CONTROL FUND.....**			
WEED AND SEED FUND.....**			
QUANTICO TRAINING CENTER.....			
U.S. PAROLE COMMISSION.....			
GENERAL LEGAL ACTIVITIES:			
SOLICITOR GENERAL.....			
TAX DIVISION.....			
CRIMINAL DIVISION.....	34	35	35
CIVIL DIVISION.....	94	100	100
ENVIRONMENT & NATURAL RESOURCES DIV.			
OFFICE OF LEGAL COUNSEL.....			
CIVIL RIGHTS DIVISION.....			
INTERPOL.....			
LEGAL ACTIVITIES AUTOMATION.....			
SPECIAL COUNSEL FOR DISCRIMINATION.....			
TOTAL GENERAL LEGAL ACTIVITIES.....	128	135	135
ANTITRUST DIVISION.....			
US ATTORNEYS.....	17,658	18,777	18,429
FOREIGN CLAIMS SETTLEMENT COMMISSION			
US MARSHALS.....	4,445	4,937	5,677
SUPPORT OF U.S. PRISONERS.....	7,499	9,103	10,225
COMMUNITY RELATIONS SERVICE.....	358	317	407
U.S. TRUSTEES.....	1,812	1,888	2,034
RADIATION COMPENSATION ADMIN EXP.....			
RADIATION COMPENSATION TRUST FUND.....			
ORGANIZED CRIME DRUG ENFORCEMENT.....	8,338	8,288	8,008
FEDERAL BUREAU OF INVESTIGATION.....	30,597	32,043	33,223
DRUG ENFORCEMENT ADMINISTRATION.....	11,318	10,550	9,097
IMMIGRATION & NATURALIZATION SERVICE.....	11,602	12,438	13,471
FEDERAL PRISON SYSTEM:			
SALARIES & EXPENSES.....	24,368	27,801	28,999
NATIONAL INSTITUTE OF CORRECTIONS.....			
BUILDINGS & FACILITIES.....	4,204	2,612	7,699
TOTAL, FEDERAL PRISON SYSTEM.....	28,570	30,213	36,698
OFFICE OF JUSTICE PROGRAMS.....**	17,925	17,724	2,314
FEES & EXPENSES OF WITNESSES.....	1,292	1,334	1,371
INDEPENDENT COUNSEL.....			
CIVIL LIB. PUB. EDUCATION FUND.....			
PRE-MERGER FILING FEES.....			
PUBLIC SAFETY OFFICERS BENEFITS.....**		124	
ASSETS FOR FUND PERM BUDGET AUTHORITY.....	8,777	9,841	9,479
DIVERSION CONTROL FEE.....	639	2,244	2,314
IMMIGRATION & NATURALIZATION FEES.....	3,869	4,327	4,802
CRIME VICTIMS FUND.....**	3,008	2,686	2,464
TOTAL DEPARTMENT OF JUSTICE.....	157,801	166,947	160,146

\*\* NOTE: For 1994 and 1995 grants are not by state, since historical information is not available.

DEPARTMENT OF JUSTICE  
GEOGRAPHIC DISTRIBUTION OF OBLIGATION  
(DOLLARS IN THOUSANDS)

	MINN.		
	1993 ACTUALS	1994 ESTIMATE	1995 ESTIMATE
APPROPRIATION			
GENERAL ADMINISTRATION.....			
INSPECTOR GENERAL.....			
CRIME CONTROL FUND.....**			
WEED AND SEED FUND.....**			
QUANTICO TRAINING CENTER.....			
U.S. PAROLE COMMISSION.....			
GENERAL LEGAL ACTIVITIES:			
SOLICITOR GENERAL.....			
TAX DIVISION.....			
CRIMINAL DIVISION.....	19	19	19
CIVIL DIVISION.....	89	50	50
ENVIRONMENT & NATURAL RESOURCES DIV			
OFFICE OF LEGAL COUNSEL.....			
CIVIL RIGHTS DIVISION.....			
INTERPOL.....			
LEGAL ACTIVITIES AUTOMATION.....			
SPECIAL COUNSEL FOR DISCRIMINATION.....			
TOTAL GENERAL LEGAL ACTIVITIES.....	108	69	69
ANTITRUST DIVISION.....			
US ATTORNEYS.....	7,174	7,628	7,487
FOREIGN CLAIMS SETTLEMENT COMMISSION			
US MARSHALS.....	2,290	2,543	2,925
SUPPORT OF U.S. PRISONERS.....	3,628	4,419	4,963
COMMUNITY RELATIONS SERVICE.....			
U.S. TRUSTEES.....	1,145	1,194	1,265
RADIATION COMPENSATION ADMIN EXP.....			
RADIATION COMPENSATION TRUST FUND.....			
ORGANIZED CRIME DRUG ENFORCEMENT.....	1,118	1,109	1,073
FEDERAL BUREAU OF INVESTIGATION.....	9,821	10,285	10,664
DRUG ENFORCEMENT ADMINISTRATION.....	1,444	1,305	1,032
IMMIGRATION & NATURALIZATION SERVICE....	10,137	10,868	11,771
FEDERAL PRISON SYSTEM:			
SALARIES & EXPENSES.....	50,868	64,897	67,131
NATIONAL INSTITUTE OF CORRECTIONS.....	26	22	22
BUILDINGS & FACILITIES.....	2,330	500	6,566
TOTAL, FEDERAL PRISON SYSTEM.....	62,244	65,419	93,719
OFFICE OF JUSTICE PROGRAMS.....**	9,246	7,371	1,112
FEES & EXPENSES OF WITNESSES.....	1,186	1,226	1,263
INDEPENDENT COUNSEL.....			
CIVIL LIB. PUB. EDUCATION FUND.....			
PRE-MERGER FILING FEES.....			
PUBLIC SAFETY OFFICERS BENEFITS.....**	120	124	
ASSETS FOR FUND PERM BUDGET AUTHORI	2,420	2,725	2,618
DIVERSION CONTROL FEE.....	116	408	421
IMMIGRATION & NATURALIZATION FEES.....	4,234	4,716	5,211
CRIME VICTIMS FUND.....**	1,684	1,790	1,275
TOTAL DEPARTMENT OF JUSTICE.....	118,115	123,199	146,888

\*\* NOTE: For 1994 and 1995 grants are not by state, since historical information is not obligations.

DEPARTMENT OF JUSTICE  
GEOGRAPHIC DISTRIBUTION OF OBLIGATIONS  
(DOLLARS IN THOUSANDS)

## MISSISSIPPI

APPROPRIATION	1993 ACTUALS	1994 ESTIMATE	1995 ESTIMATE
GENERAL ADMINISTRATION.....			
INSPECTOR GENERAL.....			
CRIME CONTROL FUND.....**			
WEED AND SEED FUND.....**			
QUANTICO TRAINING CENTER.....			
U.S. PAROLE COMMISSION.....			
GENERAL LEGAL ACTIVITIES:			
SOLICITOR GENERAL.....			
TAX DIVISION.....			
CRIMINAL DIVISION.....	6	6	6
CIVIL DIVISION.....	20	20	20
ENVIRONMENT & NATURAL RESOURCES DIV			
OFFICE OF LEGAL COUNSEL.....			
CIVIL RIGHTS DIVISION.....			
INTERPOL.....			
LEGAL ACTIVITIES AUTOMATION.....			
SPECIAL COUNSEL FOR DISCRIMINATION.....			
TOTAL GENERAL LEGAL ACTIVITIES.....	26	26	26
ANTITRUST DIVISION.....			
US ATTORNEYS.....	7,091	7,540	7,400
FOREIGN CLAIMS SETTLEMENT COMMISSION			
US MARSHALS.....	2,480	2,754	3,168
SUPPORT OF U.S. PRISONERS.....	1,302	1,585	1,781
COMMUNITY RELATIONS SERVICE.....			
U.S. TRUSTEES.....	787	820	883
RADIATION COMPENSATION ADMIN EXP.....			
RADIATION COMPENSATION TRUST FUND.....			
ORGANIZED CRIME DRUG ENFORCEMENT.....	1,378	1,363	1,318
FEDERAL BUREAU OF INVESTIGATION.....	7,807	8,178	8,477
DRUG ENFORCEMENT ADMINISTRATION.....	567	567	575
IMMIGRATION & NATURALIZATION SERVICE.....	398	424	459
FEDERAL PRISON SYSTEM:			
SALARIES & EXPENSES.....			
NATIONAL INSTITUTE OF CORRECTIONS.....	25	21	21
BUILDINGS & FACILITIES.....	3,963	51,950	10,500
TOTAL, FEDERAL PRISON SYSTEM.....	3,988	51,971	10,521
OFFICE OF JUSTICE PROGRAMS.....**	5,117	6,926	690
FEES & EXPENSES OF WITNESSES.....	724	747	769
INDEPENDENT COUNSEL.....			
CIVIL LIB. PUB. EDUCATION FUND.....			
PRE-MERGER FILING FEES.....			
PUBLIC SAFETY OFFICERS BENEFITS.....**	243	227	
ASSETS FORF FUND PERM BUDGET AUTHORI	1,788	2,016	1,935
DIVERSION CONTROL FEE.....			
IMMIGRATION & NATURALIZATION FEES.....	90	100	110
CRIME VICTIMS FUND.....**	816	843	827
TOTAL DEPARTMENT OF JUSTICE.....	34,598	86,085	36,939

\*\* NOTE: For 1994 and 1995 grants are not by state, since historical information is not obligations.

DEPARTMENT OF JUSTICE  
GEOGRAPHIC DISTRIBUTION OF OBLIGATION  
(DOLLARS IN THOUSANDS)

	MISSOURI		
APPROPRIATION	1993 ACTUALS	1994 ESTIMATE	1995 ESTIMATE
GENERAL ADMINISTRATION.....			
INSPECTOR GENERAL.....			
CRIME CONTROL FUND.....**			
WEED AND SEED FUND.....**	800		
QUANTICO TRAINING CENTER.....			
U.S. PAROLE COMMISSION.....	1,800	1,624	1,593
GENERAL LEGAL ACTIVITIES:			
SOLICITOR GENERAL.....			
TAX DIVISION.....			
CRIMINAL DIVISION.....	22	23	23
CIVIL DIVISION.....	208	200	200
ENVIRONMENT & NATURAL RESOURCES DIV.			
OFFICE OF LEGAL COUNSEL.....			
CIVIL RIGHTS DIVISION.....			
INTERPOL.....			
LEGAL ACTIVITIES AUTOMATION.....			
SPECIAL COUNSEL FOR DISCRIMINATION.....			
TOTAL GENERAL LEGAL ACTIVITIES.....	228	223	223
ANTITRUST DIVISION.....			
US ATTORNEYS.....	14,585	15,509	15,221
FOREIGN CLAIMS SETTLEMENT COMMISSION			
US MARSHALS.....	4,585	5,092	5,656
SUPPORT OF U.S. PRISONERS.....	4,437	5,407	6,073
COMMUNITY RELATIONS SERVICE.....	1,673	1,570	562
U.S. TRUSTEES.....	1,946	2,030	2,167
RADIATION COMPENSATION ADMIN EXP.			
RADIATION COMPENSATION TRUST FUND.....	56	50	50
ORGANIZED CRIME DRUG ENFORCEMENT.....	6,144	6,102	5,906
FEDERAL BUREAU OF INVESTIGATION.....	34,826	36,262	37,596
DRUG ENFORCEMENT ADMINISTRATION.....	5,585	5,306	4,799
IMMIGRATION & NATURALIZATION SERVICE.....	2,701	2,696	3,136
FEDERAL PRISON SYSTEM:			
SALARIES & EXPENSES.....	44,816	48,566	51,027
NATIONAL INSTITUTE OF CORRECTIONS.....			
BUILDINGS & FACILITIES.....	2,287	701	5,500
TOTAL, FEDERAL PRISON SYSTEM.....	47,103	49,267	56,527
OFFICE OF JUSTICE PROGRAMS.....**	11,524	10,120	1,245
FEES & EXPENSES OF WITNESSES.....	1,735	1,790	1,644
INDEPENDENT COUNSEL.....			
CIVIL LIB. PUB. EDUCATION FUND.....			
PRE-MERGER FILING FEES.....			
PUBLIC SAFETY OFFICERS BENEFITS.....**	393	362	
ASSETS FOR FUND PERM BUDGET AUTHORITY	7,230	8,132	7,818
DIVERSION CONTROL FEE.....	232	616	841
IMMIGRATION & NATURALIZATION FEES.....	1,269	1,448	1,641
CRIME VICTIMS FUND.....**	2,379	2,355	1,446
TOTAL DEPARTMENT OF JUSTICE.....	150,633	156,381	154,566

\*\* NOTE: For 1994 and 1995 grants are not by state, since historical information is not obligations.

DEPARTMENT OF JUSTICE  
GEOGRAPHIC DISTRIBUTION OF OBLIGATION  
(DOLLARS IN THOUSANDS)

	MONT.		
	1993 ACTUALS	1994 ESTIMATE	1995 ESTIMATE
APPROPRIATION			
GENERAL ADMINISTRATION.....			
INSPECTOR GENERAL.....			
CRIME CONTROL FUND.....**			
WEED AND SEED FUND.....**			
QUANTICO TRAINING CENTER.....			
U.S. PAROLE COMMISSION.....			
GENERAL LEGAL ACTIVITIES:			
SOLICITOR GENERAL.....			
TAX DIVISION.....			
CRIMINAL DIVISION.....	1	1	1
CIVIL DIVISION.....	30	30	30
ENVIRONMENT & NATURAL RESOURCES DIV.			
OFFICE OF LEGAL COUNSEL.....			
CIVIL RIGHTS DIVISION.....			
INTERPOL.....			
LEGAL ACTIVITIES AUTOMATION.....			
SPECIAL COUNSEL FOR DISCRIMINATION.....			
TOTAL GENERAL LEGAL ACTIVITIES.....	31	31	31
ANTITRUST DIVISION.....			
US ATTORNEYS.....	2,634	2,801	2,749
FOREIGN CLAIMS SETTLEMENT COMMISSION			
US MARSHALS.....	1,351	1,501	1,726
SUPPORT OF U.S. PRISONERS.....	650	792	690
COMMUNITY RELATIONS SERVICE.....			
U.S. TRUSTEES.....	435	454	489
RADIATION COMPENSATION ADMIN EXP.....			
RADIATION COMPENSATION TRUST FUND.....	50	50	50
ORGANIZED CRIME DRUG ENFORCEMENT.....	723	716	692
FEDERAL BUREAU OF INVESTIGATION.....	4,102	4,319	4,575
DRUG ENFORCEMENT ADMINISTRATION.....	263	263	267
IMMIGRATION & NATURALIZATION SERVICE.....	5,957	6,386	6,916
FEDERAL PRISON SYSTEM:			
SALARIES & EXPENSES.....			
NATIONAL INSTITUTE OF CORRECTIONS.....			
BUILDINGS & FACILITIES.....			
TOTAL, FEDERAL PRISON SYSTEM.....	0	0	0
OFFICE OF JUSTICE PROGRAMS.....**	2,641	2,992	600
FEES & EXPENSES OF WITNESSES.....	616	635	655
INDEPENDENT COUNSEL.....			
CIVIL LIB. PUB. EDUCATION FUND.....			
PRE-MERGER FILING FEES.....			
PUBLIC SAFETY OFFICERS BENEFITS.....**	120		
ASSETS FOR FUND PERM BUDGET AUTHORITY.....	603	906	870
DIVERSION CONTROL FEE.....			
IMMIGRATION & NATURALIZATION FEES.....	366	436	491
CRIME VICTIMS FUND.....**	579	656	396
TOTAL DEPARTMENT OF JUSTICE.....	21,363	22,962	21,419

\*\* NOTE: For 1994 and 1995 grants are not by state, since historical information is not obligations.

DEPARTMENT OF JUSTICE  
GEOGRAPHIC DISTRIBUTION OF OBLIGATIONS  
(DOLLARS IN THOUSANDS)

## N. CAROLINA

	1993 ACTUALS	1994 ESTIMATE	1995 ESTIMATE
APPROPRIATION			
GENERAL ADMINISTRATION.....			
INSPECTOR GENERAL.....			
CRIME CONTROL FUND.....**			
WEED AND SEED FUND.....**			
QUANTICO TRAINING CENTER.....			
U.S. PAROLE COMMISSION.....			
GENERAL LEGAL ACTIVITIES:			
SOLICITOR GENERAL.....			
TAX DIVISION.....			
CRIMINAL DIVISION.....	6	6	6
CIVIL DIVISION.....	76	75	75
ENVIRONMENT & NATURAL RESOURCES DIV			
OFFICE OF LEGAL COUNSEL.....			
CIVIL RIGHTS DIVISION.....			
INTERPOL.....			
LEGAL ACTIVITIES AUTOMATION.....			
SPECIAL COUNSEL FOR DISCRIMINATION.....			
TOTAL GENERAL LEGAL ACTIVITIES.....	82	81	81
ANTITRUST DIVISION.....			
US ATTORNEYS.....	9,544	10,149	9,961
FOREIGN CLAIMS SETTLEMENT COMMISSION			
US MARSHALS.....	4,662	5,177	5,654
SUPPORT OF U.S. PRISON SYSTEM.....	10,200	12,430	13,963
COMMUNITY RELATIONS SERVICE.....			
U.S. TRUSTEES.....			
RADIATION COMPENSATION ADMIN EXP.....			
RADIATION COMPENSATION TRUST FUND.....	256	100	
ORGANIZED CRIME DRUG ENFORCEMENT.....	3,636	3,605	3,467
FEDERAL BUREAU OF INVESTIGATION.....	13,221	13,846	14,356
DRUG ENFORCEMENT ADMINISTRATION.....	1,336	1,336	1,355
IMMIGRATION & NATURALIZATION SERVICE.....	641	902	977
FEDERAL PRISON SYSTEM:			
SALARIES & EXPENSES.....	31,210	33,622	40,627
NATIONAL INSTITUTE OF CORRECTIONS.....	1,416	1,202	1,202
BUILDINGS & FACILITIES.....	43,319	1,964	11,266
TOTAL, FEDERAL PRISON SYSTEM.....	75,947	36,968	53,065
OFFICE OF JUSTICE PROGRAMS.....**	13,349	12,915	1,533
FEES & EXPENSES OF WITNESSES.....	1,729	1,764	1,836
INDEPENDENT COUNSEL.....			
CIVIL LIB. PUB. EDUCATION FUND.....			
PRE-MERGER FILING FEES.....			
PUBLIC SAFETY OFFICERS BENEFITS.....**	1,091	362	
ASSETS FOR FUND PERM BUDGET AUTHORI	6,663	7,547	7,236
DIVERSION CONTROL FEE.....			
IMMIGRATION & NATURALIZATION FEES.....	1,046	1,181	1,341
CRIME VICTIMS FUND.....**	2,280	2,103	1,642
TOTAL DEPARTMENT OF JUSTICE.....	145,905	110,526	117,021

\*\* NOTE: For 1994 and 1995 grants are not by state, since historical information is not obligations.

DEPARTMENT OF JUSTICE  
GEOGRAPHIC DISTRIBUTION OF OBLIGATIONS  
(DOLLARS IN THOUSANDS)

## N. DAKOTA

	1993 ACTUALS	1994 ESTIMATE	1995 ESTIMATE
APPROPRIATION			
GENERAL ADMINISTRATION.....			
INSPECTOR GENERAL.....			
CRIME CONTROL FUND.....**			
WEED AND SEED FUND.....**			
QUANTICO TRAINING CENTER.....			
U.S. PAROLE COMMISSION.....			
GENERAL LEGAL ACTIVITIES:			
SOLICITOR GENERAL.....			
TAX DIVISION.....			
CRIMINAL DIVISION.....			
CIVIL DIVISION.....	4	0	0
ENVIRONMENT & NATURAL RESOURCES DIV			
OFFICE OF LEGAL COUNSEL.....			
CIVIL RIGHTS DIVISION.....			
INTERPOL.....			
LEGAL ACTIVITIES AUTOMATION.....			
SPECIAL COUNSEL FOR DISCRIMINATION.....			
TOTAL GENERAL LEGAL ACTIVITIES.....	4	0	0
ANTITRUST DIVISION.....			
US ATTORNEYS.....	2,173	2,311	2,268
FOREIGN CLAIMS SETTLEMENT COMMISSION			
US MARSHALS.....	1,398	1,552	1,785
SUPPORT OF U.S. PRISONERS.....	340	414	465
COMMUNITY RELATIONS SERVICE.....			
U.S. TRUSTEES.....			
RADIATION COMPENSATION ADMIN EXP.....			
RADIATION COMPENSATION TRUST FUND.....	87	0	0
ORGANIZED CRIME DRUG ENFORCEMENT.....	298	295	265
FEDERAL BUREAU OF INVESTIGATION.....	1,007	1,055	1,094
DRUG ENFORCEMENT ADMINISTRATION.....	350	350	355
IMMIGRATION & NATURALIZATION SERVICE.....	3,748	4,018	4,352
FEDERAL PRISON SYSTEM:			
SALARIES & EXPENSES.....			
NATIONAL INSTITUTE OF CORRECTIONS.....			
BUILDINGS & FACILITIES.....			
TOTAL, FEDERAL PRISON SYSTEM.....	0	0	0
OFFICE OF JUSTICE PROGRAMS.....**	2,361	2,328	600
FEES & EXPENSES OF WITNESSES.....	184	190	196
INDEPENDENT COUNSEL.....			
CIVIL LIB. PUB. EDUCATION FUND.....			
PRE-MERGER FILING FEES.....			
PUBLIC SAFETY OFFICERS BENEFITS.....**	234	124	
ASSETS FOR FUND PERM BUDGET AUTHORI	112	123	120
DIVERSION CONTROL FEE.....			
IMMIGRATION & NATURALIZATION FEES.....	79	88	97
CRIME VICTIMS FUND.....**	480	479	353
TOTAL DEPARTMENT OF JUSTICE.....	12,653	13,327	11,970

\*\* NOTE: For 1994 and 1995 grants are not by state, since historical information is not obligations.

DEPARTMENT OF JUSTICE  
GEOGRAPHIC DISTRIBUTION OF OBLIGATIONS  
(DOLLARS IN THOUSANDS)

NEBRASKA			
	1993 ACTUALS	1994 ESTIMATE	1995 ESTIMATE
APPROPRIATION			
GENERAL ADMINISTRATION.....			
INSPECTOR GENERAL.....			
CRIME CONTROL FUND.....**			
WEED AND SEED FUND.....**	250		
QUANTICO TRAINING CENTER.....			
U.S. PAROLE COMMISSION.....			
GENERAL LEGAL ACTIVITIES:			
SOLICITOR GENERAL.....			
TAX DIVISION.....			
CRIMINAL DIVISION.....	47	40	40
CIVIL DIVISION.....	80	50	50
ENVIRONMENT & NATURAL RESOURCES DIV.			
OFFICE OF LEGAL COUNSEL.....			
CIVIL RIGHTS DIVISION.....			
INTERPOL.....			
LEGAL ACTIVITIES AUTOMATION.....			
SPECIAL COUNSEL FOR DISCRIMINATION.....			
TOTAL GENERAL LEGAL ACTIVITIES.....	127	90	90
ANTITRUST DIVISION.....			
US ATTORNEYS.....	3,419	3,636	3,569
FOREIGN CLAIMS SETTLEMENT COMMISSION			
US MARSHALS.....	1,415	1,571	1,807
SUPPORT OF U.S. PRISONERS.....	2,266	2,765	3,129
COMMUNITY RELATIONS SERVICE.....			
U.S. TRUSTEES.....	563	567	632
RADIATION COMPENSATION ADMIN EXP.....			
RADIATION COMPENSATION TRUST FUND.....			
ORGANIZED CRIME DRUG ENFORCEMENT.....	2,226	2,195	2,121
FEDERAL BUREAU OF INVESTIGATION.....	5,918	6,196	6,426
DRUG ENFORCEMENT ADMINISTRATION.....	436	436	442
IMMIGRATION & NATURALIZATION SERVICE....	1,800	1,930	2,090
FEDERAL PRISON SYSTEM:			
SALARIES & EXPENSES.....			
NATIONAL INSTITUTE OF CORRECTIONS.....			
BUILDINGS & FACILITIES.....			
TOTAL, FEDERAL PRISON SYSTEM.....	0	0	0
OFFICE OF JUSTICE PROGRAMS.....**	4,053	3,573	600
FEES & EXPENSES OF WITNESSES.....	569	606	626
INDEPENDENT COUNSEL.....			
CIVIL LIB. PUB. EDUCATION FUND.....			
PRE-MERGER FILING FEES.....			
PUBLIC SAFETY OFFICERS BENEFITS.....**	124	127	
ASSETS FOR FUND PERM BUDGET AUTHORITY	1,536	1,733	1,663
DIVERSION CONTROL FEE.....			
IMMIGRATION & NATURALIZATION FEES.....	7,603	8,452	9,321
CRIME VICTIMS FUND.....**	634	669	565
TOTAL DEPARTMENT OF JUSTICE.....	32,979	34,619	33,110

\*\* NOTE: For 1994 and 1995 grants are not by state, since historical information is not obligations.

DEPARTMENT OF JUSTICE  
GEOGRAPHIC DISTRIBUTION OF OBLIGATIONS  
(DOLLARS IN THOUSANDS)

## NEVADA

APPROPRIATION	1993 ACTUALS	1994 ESTIMATE	1995 ESTIMATE
GENERAL ADMINISTRATION.....			
INSPECTOR GENERAL.....			
CRIME CONTROL FUND.....**			
WEED AND SEED FUND.....**			
QUANTICO TRAINING CENTER.....			
U.S. PAROLE COMMISSION.....			
GENERAL LEGAL ACTIVITIES:			
SOLICITOR GENERAL.....			
TAX DIVISION.....			
CRIMINAL DIVISION.....	48	50	50
CIVIL DIVISION.....	34	30	30
ENVIRONMENT & NATURAL RESOURCES DIV.			
OFFICE OF LEGAL COUNSEL.....			
CIVIL RIGHTS DIVISION.....			
INTERPOL.....			
LEGAL ACTIVITIES AUTOMATION.....			
SPECIAL COUNSEL FOR DISCRIMINATION.....			
TOTAL GENERAL LEGAL ACTIVITIES.....	82	80	80
ANTITRUST DIVISION.....			
US ATTORNEYS.....	5,971	6,349	6,231
FOREIGN CLAIMS SETTLEMENT COMMISSION			
US MARSHALS.....	1,935	2,149	2,471
SUPPORT OF U.S. PRISONERS.....	3,896	4,748	5,333
COMMUNITY RELATIONS SERVICE.....			
U.S. TRUSTEES.....	909	947	1,021
RADIATION COMPENSATION ADMIN EXP.....	52	55	58
RADIATION COMPENSATION TRUST FUND.....	3,279	3,000	2,000
ORGANIZED CRIME DRUG ENFORCEMENT.....	2,422	2,404	2,325
FEDERAL BUREAU OF INVESTIGATION.....	13,095	13,714	14,219
DRUG ENFORCEMENT ADMINISTRATION.....	1,567	1,567	1,569
IMMIGRATION & NATURALIZATION SERVICE.....	2,130	2,263	2,472
FEDERAL PRISON SYSTEM:			
SALARIES & EXPENSES.....	5,433	5,666	6,166
NATIONAL INSTITUTE OF CORRECTIONS.....			
BUILDINGS & FACILITIES.....	78	51	500
TOTAL, FEDERAL PRISON SYSTEM.....	5,511	5,939	6,666
OFFICE OF JUSTICE PROGRAMS.....**	6,781	4,153	600
FEES & EXPENSES OF WITNESSES.....	1,041	1,074	1,107
INDEPENDENT COUNSEL.....			
CIVIL LIB. PUB. EDUCATION FUND.....			
PRE-MERGER FILING FEES.....			
PUBLIC SAFETY OFFICERS BENEFITS.....**	120		
ASSETS FOR FUND PERM BUDGET AUTHORITY.....	3,006	3,366	3,254
DIVERSION CONTROL FEE.....			
IMMIGRATION & NATURALIZATION FEES.....	630	922	1,016
CRIME VICTIMS FUND.....**	555	478	518
TOTAL DEPARTMENT OF JUSTICE.....	53,184	53,246	50,960

\*\* NOTE: For 1994 and 1995 grants are not by state, since historical information is not obligations.

DEPARTMENT OF JUSTICE  
GEOGRAPHIC DISTRIBUTION OF OBLIGATION  
(DOLLARS IN THOUSANDS)

## NEW HAMPSHIRE

	1993 ACTUALS	1994 ESTIMATE	1995 ESTIMATE
APPROPRIATION			
GENERAL ADMINISTRATION.....			
INSPECTOR GENERAL.....			
CRIME CONTROL FUND.....**			
WEED AND SEED FUND.....**			
QUANTICO TRAINING CENTER.....			
U.S. PAROLE COMMISSION.....			
GENERAL LEGAL ACTIVITIES:			
SOLICITOR GENERAL.....			
TAX DIVISION.....			
CRIMINAL DIVISION.....	14	14	14
CIVIL DIVISION.....	29	30	30
ENVIRONMENT & NATURAL RESOURCES DIV.			
OFFICE OF LEGAL COUNSEL.....			
CIVIL RIGHTS DIVISION.....			
INTERPOL.....			
LEGAL ACTIVITIES AUTOMATION.....			
SPECIAL COUNSEL FOR DISCRIMINATION.....			
TOTAL GENERAL LEGAL ACTIVITIES.....	43	44	44
ANTITRUST DIVISION.....			
US ATTORNEYS.....	2,493	2,651	2,602
FOREIGN CLAIMS SETTLEMENT COMMISSION			
US MARSHALS.....	989	1,008	1,283
SUPPORT OF U.S. PRISONERS.....	581	708	795
COMMUNITY RELATIONS SERVICE.....			
U.S. TRUSTEES.....	271	282	304
RADIATION COMPENSATION ADMIN EXP.....			
RADIATION COMPENSATION TRUST FUND.....	23		
ORGANIZED CRIME DRUG ENFORCEMENT.....	293	292	282
FEDERAL BUREAU OF INVESTIGATION.....	1,133	1,187	1,230
DRUG ENFORCEMENT ADMINISTRATION.....	332	332	337
IMMIGRATION & NATURALIZATION SERVICE.....	75	80	87
FEDERAL PRISON SYSTEM:			
SALARIES & EXPENSES.....			
NATIONAL INSTITUTE OF CORRECTIONS.....	60	53	53
BUILDINGS & FACILITIES.....			
TOTAL, FEDERAL PRISON SYSTEM.....	60	53	53
OFFICE OF JUSTICE PROGRAMS.....**	3,055	3,289	600
FEES & EXPENSES OF WITNESSES.....	186	194	199
INDEPENDENT COUNSEL.....			
CIVIL LIB. PUB. EDUCATION FUND.....			
PRE-MERGER FILING FEES.....			
PUBLIC SAFETY OFFICERS BENEFITS.....**		243	
ASSETS FOR FUND PERM BUDGET AUTHORITY	380	427	411
DIVERSION CONTROL FEE.....			
IMMIGRATION & NATURALIZATION FEES.....	0	0	0
CRIME VICTIMS FUND.....**	460	517	487
TOTAL DEPARTMENT OF JUSTICE.....	10,376	11,397	8,674

\*\* NOTE: For 1994 and 1995 grants are not by state, since historical information is not obligations.

DEPARTMENT OF JUSTICE  
GEOGRAPHIC DISTRIBUTION OF OBLIGATIONS  
(DOLLARS IN THOUSANDS)

## NEW JERSEY

APPROPRIATION	1993 ACTUALS	1994 ESTIMATE	1995 ESTIMATE
GENERAL ADMINISTRATION.....	672	744	781
INSPECTOR GENERAL.....			
CRIME CONTROL FUND.....**			
WEED AND SEED FUND.....**	1,220		
QUANTICO TRAINING CENTER.....			
U.S. PAROLE COMMISSION.....			
GENERAL LEGAL ACTIVITIES:			
SOLICITOR GENERAL.....			
TAX DIVISION.....			
CRIMINAL DIVISION.....	112	118	118
CIVIL DIVISION.....	90	90	90
ENVIRONMENT & NATURAL RESOURCES DIV.			
OFFICE OF LEGAL COUNSEL.....			
CIVIL RIGHTS DIVISION.....			
INTERPOL.....			
LEGAL ACTIVITIES AUTOMATION.....			
SPECIAL COUNSEL FOR DISCRIMINATION.....			
TOTAL GENERAL LEGAL ACTIVITIES.....	202	208	208
ANTITRUST DIVISION.....			
US ATTORNEYS.....	19,394	20,622	20,240
FOREIGN CLAIMS SETTLEMENT COMMISSION			
US MARSHALS.....	3,418	3,798	4,366
SUPPORT OF U.S. PRISONERS.....	7,458	9,069	10,209
COMMUNITY RELATIONS SERVICE.....			
U.S. TRUSTEES.....	1,348	1,403	1,511
RADIATION COMPENSATION ADMIN EXP.....			
RADIATION COMPENSATION TRUST FUND.....	82		
ORGANIZED CRIME DRUG ENFORCEMENT.....	5,764	5,711	5,522
FEDERAL BUREAU OF INVESTIGATION.....	51,550	50,166	52,445
DRUG ENFORCEMENT ADMINISTRATION.....	7,665	6,998	5,641
IMMIGRATION & NATURALIZATION SERVICE.....	7,732	8,269	8,978
FEDERAL PRISON SYSTEM:			
SALARIES & EXPENSES.....	39,971	55,437	61,458
NATIONAL INSTITUTE OF CORRECTIONS.....			
BUILDINGS & FACILITIES.....	10,034	500	11,000
TOTAL, FEDERAL PRISON SYSTEM.....	50,005	55,937	92,458
OFFICE OF JUSTICE PROGRAMS.....**	14,779	15,771	1,718
FEES & EXPENSES OF WITNESSES.....	508	525	541
INDEPENDENT COUNSEL.....			
CIVIL LIB. PUB. EDUCATION FUND.....			
PRE-MERGER FILING FEES.....			
PUBLIC SAFETY OFFICERS BENEFITS.....**	487		
ASSETS FOR FUND PERM BUDGET AUTHORI	3,247	3,806	3,493
DIVERSION CONTROL FEE.....	581	2,040	2,103
IMMIGRATION & NATURALIZATION FEES.....	9,639	10,716	11,619
CRIME VICTIMS FUND.....**	3,388	2,114	2,089
TOTAL DEPARTMENT OF JUSTICE.....	189,147	197,733	224,100

\*\* NOTE: For 1994 and 1995 grants are not by state, since historical information is not obligations.

DEPARTMENT OF JUSTICE  
GEOGRAPHIC DISTRIBUTION OF OBLIGATIONS  
(DOLLARS IN THOUSANDS)

	N. MEXICO		
	1993 ACTUALS	1994 ESTIMATE	1995 ESTIMATE
APPROPRIATION			
GENERAL ADMINISTRATION.....			
INSPECTOR GENERAL.....			
CRIME CONTROL FUND.....**			
WEED AND SEED FUND.....**			
QUANTICO TRAINING CENTER.....			
U.S. PAROLE COMMISSION.....			
GENERAL LEGAL ACTIVITIES:			
SOLICITOR GENERAL.....			
TAX DIVISION.....			
CRIMINAL DIVISION.....	1	1	1
CIVIL DIVISION.....	42	40	40
ENVIRONMENT & NATURAL RESOURCES DIV			
OFFICE OF LEGAL COUNSEL.....			
CIVIL RIGHTS DIVISION.....			
INTERPOL.....			
LEGAL ACTIVITIES AUTOMATION.....			
SPECIAL COUNSEL FOR DISCRIMINATION.....			
TOTAL GENERAL LEGAL ACTIVITIES.....	43	41	41
ANTITRUST DIVISION.....			
US ATTORNEYS.....	4,773	5,075	4,981
FOREIGN CLAIMS SETTLEMENT COMMISSION			
US MARSHALS.....	1,685	1,871	2,152
SUPPORT OF U.S. PRISONERS.....	6,789	6,274	9,294
COMMUNITY RELATIONS SERVICE.....			
U.S. TRUSTEES.....	553	576	620
RADIATION COMPENSATION ADMIN EXP.....	16	18	20
RADIATION COMPENSATION TRUST FUND.....	6,664	5,000	5,000
ORGANIZED CRIME DRUG ENFORCEMENT.....	2,827	2,601	2,514
FEDERAL BUREAU OF INVESTIGATION.....	8,688	9,099	9,433
DRUG ENFORCEMENT ADMINISTRATION.....	2,150	2,080	1,984
IMMIGRATION & NATURALIZATION SERVICE.....	14,696	15,755	17,063
FEDERAL PRISON SYSTEM:			
SALARIES & EXPENSES.....			
NATIONAL INSTITUTE OF CORRECTIONS.....			
BUILDINGS & FACILITIES.....			
TOTAL, FEDERAL PRISON SYSTEM.....	0	0	0
OFFICE OF JUSTICE PROGRAMS.....**	3,513	4,270	600
FEES & EXPENSES OF WITNESSES.....	1,077	1,111	1,145
INDEPENDENT COUNSEL.....			
CIVIL LIB. PUB. EDUCATION FUND.....			
PRE-MERGER FILING FEES.....			
PUBLIC SAFETY OFFICERS BENEFITS.....**	229	247	
ASSETS FOR FUND PERM BUDGET AUTHORI	3,689	4,154	3,990
DIVERSION CONTROL FEE.....	58	204	210
IMMIGRATION & NATURALIZATION FEES.....	295	336	381
CRIME VICTIMS FUND.....**	1,016	933	579
TOTAL DEPARTMENT OF JUSTICE.....	60,561	61,645	59,987

\*\* NOTE: For 1994 and 1995 grants are not by state, since historical information is not available.

DEPARTMENT OF JUSTICE  
GEOGRAPHIC DISTRIBUTION OF OBLIGATIONS  
(DOLLARS IN THOUSANDS)

## N. YORK

APPROPRIATION	1993 ACTUALS	1994 ESTIMATE	1995 ESTIMATE
GENERAL ADMINISTRATION.....	2,564	3,061	3,223
INSPECTOR GENERAL.....	1,662	1,733	1,766
CRIME CONTROL FUND.....**			
WEED AND SEED FUND.....**			
QUANTICO TRAINING CENTER.....			
U.S. PAROLE COMMISSION.....			
<b>GENERAL LEGAL ACTIVITIES:</b>			
SOLICITOR GENERAL.....			
TAX DIVISION.....			
CRIMINAL DIVISION.....	198	204	204
CIVIL DIVISION.....	1,791	1,660	1,906
ENVIRONMENT & NATURAL RESOURCE DIV.			
OFFICE OF LEGAL COUNSEL.....			
CIVIL RIGHTS DIVISION.....			
INTERPOL.....			
LEGAL ACTIVITIES AUTOMATION.....			
SPECIAL COUNSEL FOR DISCRIMINATION.....			
TOTAL GENERAL LEGAL ACTIVITIES.....	1,989	2,064	2,112
ANTITRUST DIVISION.....	3,173	3,309	3,375
US ATTORNEYS.....	91,526	97,326	95,521
FOREIGN CLAIMS SETTLEMENT COMMISSION			
US MARSHALS.....	16,351	16,156	20,662
SUPPORT OF U.S. PRISONERS.....	23,020	27,200	30,553
COMMUNITY RELATIONS SERVICE.....	2,949	2,739	2,654
U.S. TRUSTEES.....	6,052	6,306	6,794
RADIATION COMPENSATION ADMIN EXP.....			
RADIATION COMPENSATION TRUST FUND.....			
ORGANIZED CRIME DRUG ENFORCEMENT.....	26,654	26,655	27,731
FEDERAL BUREAU OF INVESTIGATION.....	169,096	177,069	183,613
DRUG ENFORCEMENT ADMINISTRATION.....	41,433	40,369	36,771
IMMIGRATION & NATURALIZATION SERVICE.....	47,466	50,666	55,112
<b>FEDERAL PRISON SYSTEM:</b>			
SALARIES & EXPENSES.....	67,762	76,466	82,463
NATIONAL INSTITUTE OF CORRECTIONS.....	367	311	311
BUILDINGS & FACILITIES.....	121,749	16,641	15,077
TOTAL, FEDERAL PRISON SYSTEM.....	189,896	97,638	97,851
OFFICE OF JUSTICE PROGRAMS.....**	36,293	30,844	4,079
FEES & EXPENSES OF WITNESSES.....	4,339	4,476	4,612
INDEPENDENT COUNSEL.....			
CIVIL LIB. PUB. EDUCATION FUND.....			
PRE-MERGER FILING FEES.....	1,176	1,926	2,042
PUBLIC SAFETY OFFICERS BENEFITS.....**	1,094	494	
ASSETS FOR FUND PERM BUDGET AUTHORITY	60,233	67,769	65,147
DIVERSION CONTROL FEE.....	672	3,000	3,155
IMMIGRATION & NATURALIZATION FEES.....	41,166	45,666	50,704
CRIME VICTIMS FUND.....**	7,396	6,274	4,547
<b>TOTAL DEPARTMENT OF JUSTICE.....</b>	<b>776,630</b>	<b>719,304</b>	<b>704,244</b>

\*\* NOTE: For 1994 and 1995 grants are not by state, since historical information is not available.

DEPARTMENT OF JUSTICE  
GEOGRAPHIC DISTRIBUTION OF OBLIGATIONS  
(DOLLARS IN THOUSANDS)

## OHIO

APPROPRIATION	1993 ACTUALS	1994 ESTIMATE	1995 ESTIMATE
GENERAL ADMINISTRATION.....			
INSPECTOR GENERAL.....			
CRIME CONTROL FUND.....**			
WEED AND SEED FUND.....**			
QUANTICO TRAINING CENTER.....			
U.S. PAROLE COMMISSION.....			
GENERAL LEGAL ACTIVITIES:			
SOLICITOR GENERAL.....			
TAX DIVISION.....			
CRIMINAL DIVISION.....	54	56	56
CIVIL DIVISION.....	191	200	200
ENVIRONMENT & NATURAL RESOURCES DIVISION.....			
OFFICE OF LEGAL COUNSEL.....			
CIVIL RIGHTS DIVISION.....			
INTERPOL.....			
LEGAL ACTIVITIES AUTOMATION.....			
SPECIAL COUNSEL FOR DISCRIMINATION.....			
TOTAL GENERAL LEGAL ACTIVITIES.....	245	256	256
ANTITRUST DIVISION.....	2,307	2,406	2,454
US ATTORNEYS.....	18,776	19,965	19,595
FOREIGN CLAIMS SETTLEMENT COMMISSION.....			
US MARSHALS.....	4,342	4,822	5,546
SUPPORT OF U.S. PRISONERS.....	6,664	6,365	9,396
COMMUNITY RELATIONS SERVICE.....			
U.S. TRUSTEES.....	3,121	3,252	3,503
RADIATION COMPENSATION ADMIN EXP.....			
RADIATION COMPENSATION TRUST FUND.....	6	0	0
ORGANIZED CRIME DRUG ENFORCEMENT.....	6,245	6,170	5,966
FEDERAL BUREAU OF INVESTIGATION.....	32,969	34,546	35,821
DRUG ENFORCEMENT ADMINISTRATION.....	2,200	1,817	1,041
IMMIGRATION & NATURALIZATION SERVICE.....	2,511	2,692	2,916
FEDERAL PRISON SYSTEM:			
SALARIES & EXPENSES.....			
NATIONAL INSTITUTE OF CORRECTIONS.....			
BUILDINGS & FACILITIES.....	166	11,026	66,000
TOTAL, FEDERAL PRISON SYSTEM.....	166	11,026	66,000
OFFICE OF JUSTICE PROGRAMS.....**	20,561	19,734	2,601
FEES & EXPENSES OF WITNESSES.....	1,559	1,606	1,657
INDEPENDENT COUNSEL.....			
CIVIL LIB. PUB. EDUCATION FUND.....			
PRE-MERGER FILING FEES.....	856	1,400	1,484
PUBLIC SAFETY OFFICERS BENEFITS.....**	1,066	247	
ASSETS FOR FUND PERM BUDGET AUTHORITY.....	7,777	8,776	8,421
DIVERSION CONTROL FEE.....	320	1,122	1,157
IMMIGRATION & NATURALIZATION FEES.....	1,661	2,063	2,314
CRIME VICTIMS FUND.....**	5,453	6,360	2,643
TOTAL DEPARTMENT OF JUSTICE.....	119,227	136,670	172,971

\*\* NOTE: For 1994 and 1995 grants are not by state, since historical information is not obligations.

DEPARTMENT OF JUSTICE  
GEOGRAPHIC DISTRIBUTION OF OBLIGATIONS  
(DOLLARS IN THOUSANDS)

## OKLAHOMA

APPROPRIATION	1993 ACTUALS	1994 ESTIMATE	1995 ESTIMATE
GENERAL ADMINISTRATION.....			
INSPECTOR GENERAL.....			
CRIME CONTROL FUND.....**			
WEED AND SEED FUND.....**			
QUANTICO TRAINING CENTER.....			
U.S. PAROLE COMMISSION.....			
GENERAL LEGAL ACTIVITIES:			
SOLICITOR GENERAL.....			
TAX DIVISION.....			
CRIMINAL DIVISION.....	22	23	23
CIVIL DIVISION.....	18	15	15
ENVIRONMENT & NATURAL RESOURCES DIVISION.....			
OFFICE OF LEGAL COUNSEL.....			
CIVIL RIGHTS DIVISION.....			
INTERPOL.....			
LEGAL ACTIVITIES AUTOMATION.....			
SPECIAL COUNSEL FOR DISCRIMINATION.....			
TOTAL GENERAL LEGAL ACTIVITIES.....	40	38	38
ANTITRUST DIVISION.....			
US ATTORNEYS.....	10,451	11,113	10,907
FOREIGN CLAIMS SETTLEMENT COMMISSION.....			
US MARSHALS.....	4,600	5,200	5,000
SUPPORT OF U.S. PRISONERS.....	2,766	3,398	3,817
COMMUNITY RELATIONS SERVICE.....			
U.S. TRUSTEES.....	1,117	1,164	1,254
RADIATION COMPENSATION ADMIN EXP.....			
RADIATION COMPENSATION TRUST FUND.....	50		
ORGANIZED CRIME DRUG ENFORCEMENT.....	2,669	2,637	2,550
FEDERAL BUREAU OF INVESTIGATION.....	16,494	17,274	17,910
DRUG ENFORCEMENT ADMINISTRATION.....	1,369	1,195	848
IMMIGRATION & NATURALIZATION SERVICE.....	622	667	722
FEDERAL PRISON SYSTEM:			
SALARIES & EXPENSES.....	26,996	31,570	58,658
NATIONAL INSTITUTE OF CORRECTIONS.....	10	8	8
BUILDINGS & FACILITIES.....	4,247	4,825	8,247
TOTAL, FEDERAL PRISON SYSTEM.....	33,255	36,403	67,113
OFFICE OF JUSTICE PROGRAMS.....**	6,245	6,132	791
FEES & EXPENSES OF WITNESSES.....	1,657	1,710	1,761
INDEPENDENT COUNSEL.....			
CIVIL LIB. PUB. EDUCATION FUND.....			
PRE-MERGER FILING FEES.....			
PUBLIC SAFETY OFFICERS BENEFITS.....**	173		
ASSETS FOR FUND PERM BUDGET AUTHORITY.....	2,041	2,295	2,207
DIVERSION CONTROL FEE.....	145	510	526
IMMIGRATION & NATURALIZATION FEES.....	292	324	357
CRIME VICTIMS FUND.....**	1,353	1,460	971
TOTAL DEPARTMENT OF JUSTICE.....	85,461	91,538	117,762

\*\* NOTE: For 1994 and 1995 grants are not by state, since historical information is not obligations.

DEPARTMENT OF JUSTICE  
GEOGRAPHIC DISTRIBUTION OF OBLIGATION  
(DOLLARS IN THOUSANDS)

## OREGON

APPROPRIATION	1993 ACTUALS	1994 ESTIMATE	1995 ESTIMATE
GENERAL ADMINISTRATION.....			
INSPECTOR GENERAL.....			
CRIME CONTROL FUND.....**			
WEED AND SEED FUND.....**			
QUANTICO TRAINING CENTER.....			
U.S. PAROLE COMMISSION.....			
GENERAL LEGAL ACTIVITIES:			
SOLICITOR GENERAL.....			
TAX DIVISION.....			
CRIMINAL DIVISION.....	2	2	2
CIVIL DIVISION.....	211	200	200
ENVIRONMENT & NATURAL RESOURCES DIV.			
OFFICE OF LEGAL COUNSEL.....			
CIVIL RIGHTS DIVISION.....			
INTERPOL.....			
LEGAL ACTIVITIES AUTOMATION.....			
SPECIAL COUNSEL FOR DISCRIMINATION.....			
TOTAL GENERAL LEGAL ACTIVITIES.....	213	202	202
ANTITRUST DIVISION.....			
US ATTORNEYS.....	6,610	7,029	6,699
FOREIGN CLAIMS SETTLEMENT COMMISSION			
US MARSHALS.....	2,427	2,696	3,100
SUPPORT OF U.S. PRISONERS.....	5,175	6,306	7,083
COMMUNITY RELATIONS SERVICE.....			
U.S. TRUSTEES.....	865	902	971
RADIATION COMPENSATION ADMIN EXP.....			
RADIATION COMPENSATION TRUST FUND.....	87		
ORGANIZED CRIME DRUG ENFORCEMENT.....	3,506	3,473	3,356
FEDERAL BUREAU OF INVESTIGATION.....	9,569	10,022	10,391
DRUG ENFORCEMENT ADMINISTRATION.....	1,426	1,289	1,016
IMMIGRATION & NATURALIZATION SERVICE.....	3,266	3,502	3,793
FEDERAL PRISON SYSTEM:			
SALARIES & EXPENSES.....	20,822	22,584	26,707
NATIONAL INSTITUTE OF CORRECTIONS.....	44	37	37
BUILDINGS & FACILITIES.....	1,716	500	4,539
TOTAL, FEDERAL PRISON SYSTEM.....	22,582	23,121	31,263
OFFICE OF JUSTICE PROGRAMS.....**	6,320	6,335	707
FEES & EXPENSES OF WITNESSES.....	962	993	1,023
INDEPENDENT COUNSEL.....			
CIVIL LIB. PUB. EDUCATION FUND.....			
PRE-MERGER FILING FEES.....			
PUBLIC SAFETY OFFICERS BENEFITS.....**	610		
ASSETS FORF FUND PERM BUDGET AUTHORITY	5,995	6,765	6,491
DIVERSION CONTROL FEE.....	116	406	421
IMMIGRATION & NATURALIZATION FEES.....	1,647	2,066	2,296
CRIME VICTIMS FUND.....**	1,401	1,673	914
TOTAL DEPARTMENT OF JUSTICE.....	72,979	76,784	79,950

\*\* NOTE: For 1994 and 1995 grants are not by state, since historical information is not obligations.

DEPARTMENT OF JUSTICE  
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(DOLLARS IN THOUSANDS)

	PENN.		
	1993 ACTUALS	1994 ESTIMATE	1995 ESTIMATE
APPROPRIATION			
GENERAL ADMINISTRATION.....			
INSPECTOR GENERAL.....	371	382	389
CRIME CONTROL FUND.....**			
WEED AND SEED FUND.....**	974		
QUANTICO TRAINING CENTER.....			
U.S. PAROLE COMMISSION.....			
GENERAL LEGAL ACTIVITIES:			
SOLICITOR GENERAL.....			
TAX DIVISION.....			
CRIMINAL DIVISION.....	156	161	161
CIVIL DIVISION.....	498	500	500
ENVIRONMENT & NATURAL RESOURCES DIV.			
OFFICE OF LEGAL COUNSEL.....			
CIVIL RIGHTS DIVISION.....			
INTERPOL.....			
LEGAL ACTIVITIES AUTOMATION.....			
SPECIAL COUNSEL FOR DISCRIMINATION.....			
TOTAL GENERAL LEGAL ACTIVITIES.....	654	661	661
ANTITRUST DIVISION.....	2,702	2,818	2,874
US ATTORNEYS.....	28,789	30,613	30,045
FOREIGN CLAIMS SETTLEMENT COMMISSION			
US MARSHALS.....	7,388	8,204	9,435
SUPPORT OF U.S. PRISONERS.....	7,536	9,183	10,315
COMMUNITY RELATIONS SERVICE.....	509	535	587
U.S. TRUSTEES.....	3,028	3,155	3,399
RADIATION COMPENSATION ADMIN EXP.....	1		
RADIATION COMPENSATION TRUST FUND.....	75		
ORGANIZED CRIME DRUG ENFORCEMENT.....	11,513	11,393	11,017
FEDERAL BUREAU OF INVESTIGATION.....	53,513	58,041	58,106
DRUG ENFORCEMENT ADMINISTRATION.....	8,502	7,945	8,892
IMMIGRATION & NATURALIZATION SERVICE.....	6,743	7,229	7,830
FEDERAL PRISON SYSTEM:			
SALARIES & EXPENSES.....	149,749	183,600	210,239
NATIONAL INSTITUTE OF CORRECTIONS.....			
BUILDINGS & FACILITIES.....	23,337	3,187	92,829
TOTAL, FEDERAL PRISON SYSTEM.....	173,086	186,787	303,068
OFFICE OF JUSTICE PROGRAMS.....**	25,710	22,145	2,623
FEES & EXPENSES OF WITNESSES.....	2,450	2,528	2,804
INDEPENDENT COUNSEL.....			
CIVIL LIB. PUB. EDUCATION FUND.....			
PRE-MERGER FILING FEES.....	1,003	1,640	1,738
PUBLIC SAFETY OFFICERS BENEFITS.....**	980	124	
ASSETS FOR FUND PERM BUDGET AUTHORITY.....	9,927	11,148	10,727
DIVERSION CONTROL FEE.....	465	1,632	1,683
IMMIGRATION & NATURALIZATION FEES.....	3,537	3,935	4,343
CRIME VICTIMS FUND.....**	4,472	4,073	3,081
TOTAL DEPARTMENT OF JUSTICE.....	353,908	372,169	471,597

\*\* NOTE: For 1994 and 1995 grants are not by state, since historical information is not obligations.

DEPARTMENT OF JUSTICE  
GEOGRAPHIC DISTRIBUTION OF OBLIGATIONS  
(DOLLARS IN THOUSANDS)

## RHODE IS.

	1993 ACTUALS	1994 ESTIMATE	1995 ESTIMATE
APPROPRIATION:			
GENERAL ADMINISTRATION.....			
INSPECTOR GENERAL.....			
CRIME CONTROL FUND.....**			
WEED AND SEED FUND.....**			
QUANTICO TRAINING CENTER.....			
U.S. PAROLE COMMISSION.....			
GENERAL LEGAL ACTIVITIES:			
SOLICITOR GENERAL.....			
TAX DIVISION.....			
CRIMINAL DIVISION.....	17	17	17
CIVIL DIVISION.....	23	20	20
ENVIRONMENT & NATURAL RESOURCES DIV.			
OFFICE OF LEGAL COUNSEL.....			
CIVIL RIGHTS DIVISION.....			
INTERPOL.....			
LEGAL ACTIVITIES AUTOMATION.....			
SPECIAL COUNSEL FOR DISCRIMINATION.....			
TOTAL GENERAL LEGAL ACTIVITIES.....	40	37	37
ANTITRUST DIVISION.....			
US ATTORNEYS.....	2,854	3,035	2,979
FOREIGN CLAIMS SETTLEMENT COMMISSION			
US MARSHALS.....	1,052	1,158	1,343
SUPPORT OF U.S. PRISONERS.....	1,517	1,649	2,076
COMMUNITY RELATIONS SERVICE.....			
U.S. TRUSTEES.....	35	36	39
RADIATION COMPENSATION ADMIN EXP.....			
RADIATION COMPENSATION TRUST FUND.....			
ORGANIZED CRIME DRUG ENFORCEMENT.....	1,718	1,698	1,641
FEDERAL BUREAU OF INVESTIGATION.....	3,274	3,426	3,555
DRUG ENFORCEMENT ADMINISTRATION.....	721	721	731
IMMIGRATION & NATURALIZATION SERVICE.....	637	682	739
FEDERAL PRISON SYSTEM:			
SALARIES & EXPENSES.....			
NATIONAL INSTITUTE OF CORRECTIONS.....			
BUILDINGS & FACILITIES.....			
TOTAL, FEDERAL PRISON SYSTEM.....	0	0	0
OFFICE OF JUSTICE PROGRAMS.....**	3,130	2,768	600
FEES & EXPENSES OF WITNESSES.....	285	294	302
INDEPENDENT COUNSEL.....			
CIVIL LIB. PUB. EDUCATION FUND.....			
PRE-MERGER FILING FEES.....			
PUBLIC SAFETY OFFICERS BENEFITS.....**			
ASSETS FOR FUND PERM BUDGET AUTHORITY.....	485	544	525
DIVERSION CONTROL FEE.....			
IMMIGRATION & NATURALIZATION FEES.....	420	484	553
CRIME VICTIMS FUND.....**	831	701	441
TOTAL DEPARTMENT OF JUSTICE.....	16,999	17,445	15,561

\*\* NOTE: For 1994 and 1995 grants are not by state, since historical information is not obligations.

DEPARTMENT OF JUSTICE  
GEOGRAPHIC DISTRIBUTION OF OBLIGATION  
(DOLLARS IN THOUSANDS)

## S. CAROLINA

APPROPRIATION	1993 ACTUALS	1994 ESTIMATE	1995 ESTIMATE
GENERAL ADMINISTRATION.....			
INSPECTOR GENERAL.....			
CRIME CONTROL FUND.....**			
WEED AND SEED FUND.....**	1,487		
QUANTICO TRAINING CENTER.....			
U.S. PAROLE COMMISSION.....			
GENERAL LEGAL ACTIVITIES:			
SOLICITOR GENERAL.....			
TAX DIVISION.....			
CRIMINAL DIVISION.....	8	8	8
CIVIL DIVISION.....	56	50	50
ENVIRONMENT & NATURAL RESOURCES DIV			
OFFICE OF LEGAL COUNSEL.....			
CIVIL RIGHTS DIVISION.....			
INTERPOL.....			
LEGAL ACTIVITIES AUTOMATION.....			
SPECIAL COUNSEL FOR DISCRIMINATION.....			
TOTAL GENERAL LEGAL ACTIVITIES.....	64	58	58
ANTITRUST DIVISION.....			
US ATTORNEYS.....	7,285	7,746	7,802
FOREIGN CLAIMS SETTLEMENT COMMISSION			
US MARSHALS.....	2,871	2,967	3,412
SUPPORT OF U.S. PRISONERS.....	2,368	2,866	3,241
COMMUNITY RELATIONS SERVICE.....			
U.S. TRUSTEES.....	1,664	1,734	1,868
RADIATION COMPENSATION ADMIN EXP.....			
RADIATION COMPENSATION TRUST FUND.....			
ORGANIZED CRIME DRUG ENFORCEMENT.....	2,394	2,372	2,293
FEDERAL BUREAU OF INVESTIGATION.....	9,589	10,022	10,391
DRUG ENFORCEMENT ADMINISTRATION.....	686	686	686
IMMIGRATION & NATURALIZATION SERVICE.....	33	36	39
FEDERAL PRISON SYSTEM:			
SALARIES & EXPENSES.....	12,368	13,403	14,082
NATIONAL INSTITUTE OF CORRECTIONS.....			
BUILDINGS & FACILITIES.....	3,494	8,200	45,800
TOTAL, FEDERAL PRISON SYSTEM.....	15,862	21,603	59,882
OFFICE OF JUSTICE PROGRAMS.....**	9,937	6,811	872
FEES & EXPENSES OF WITNESSES.....	602	621	640
INDEPENDENT COUNSEL.....			
CIVIL LIB. PUB. EDUCATION FUND.....			
PRE-MERGER FILING FEES.....			
PUBLIC SAFETY OFFICERS BENEFITS.....**	734	127	
ASSETS FOR FUND PERM BUDGET AUTHORITY	2,052	2,311	2,221
DIVERSION CONTROL FEE.....			
IMMIGRATION & NATURALIZATION FEES.....	232	258	264
CRIME VICTIMS FUND.....**	2,181	2,362	1,064
TOTAL DEPARTMENT OF JUSTICE.....	59,821	62,620	94,363

\*\* NOTE: For 1994 and 1995 grants are not by state, since historical information is not obligations.

DEPARTMENT OF JUSTICE  
GEOGRAPHIC DISTRIBUTION OF OBLIGATION  
(DOLLARS IN THOUSANDS)

## S. DAKOTA

	1993 ACTUALS	1994 ESTIMATE	1995 ESTIMATE
APPROPRIATION			
GENERAL ADMINISTRATION.....			
INSPECTOR GENERAL.....			
CRIME CONTROL FUND.....**			
WEED AND SEED FUND.....**			
QUANTICO TRAINING CENTER.....			
U.S. PAROLE COMMISSION.....		\$	
GENERAL LEGAL ACTIVITIES:			
SOLICITOR GENERAL.....			
TAX DIVISION.....			
CRIMINAL DIVISION.....	1	1	1
CIVIL DIVISION.....	4	0	0
ENVIRONMENT & NATURAL RESOURCES DIVISION.....			
OFFICE OF LEGAL COUNSEL.....			
CIVIL RIGHTS DIVISION.....			
INTERPOL.....			
LEGAL ACTIVITIES AUTOMATION.....			
SPECIAL COUNSEL FOR DISCRIMINATION.....			
TOTAL GENERAL LEGAL ACTIVITIES.....	5	1	1
ANTITRUST DIVISION.....			
US ATTORNEYS.....	2,695	3,076	3,021
FOREIGN CLAIMS SETTLEMENT COMMISSION.....			
US MARSHALS.....	1,506	1,761	2,025
SUPPORT OF U.S. PRISONERS.....	677	625	927
COMMUNITY RELATIONS SERVICE.....			
U.S. TRUSTEES.....	496	519	559
RADIATION COMPENSATION ADMIN EXP.....			
RADIATION COMPENSATION TRUST FUND.....			
ORGANIZED CRIME DRUG ENFORCEMENT.....	421	419	405
FEDERAL BUREAU OF INVESTIGATION.....	2,266	2,374	2,461
DRUG ENFORCEMENT ADMINISTRATION.....	416	346	205
IMMIGRATION & NATURALIZATION SERVICE.....			
FEDERAL PRISON SYSTEM:			
SALARIES & EXPENSES.....	6,537	9,251	9,720
NATIONAL INSTITUTE OF CORRECTIONS.....			
BUILDINGS & FACILITIES.....	846	318	3,017
TOTAL, FEDERAL PRISON SYSTEM.....	9,383	9,569	12,737
OFFICE OF JUSTICE PROGRAMS.....**	2,434	3,067	600
FEES & EXPENSES OF WITNESSES.....	1,044	1,076	1,110
INDEPENDENT COUNSEL.....			
CIVIL LIB. PUB. EDUCATION FUND.....			
PRE-MERGER FILING FEES.....			
PUBLIC SAFETY OFFICERS BENEFITS.....**			
ASSETS FOR FUND PERM BUDGET AUTHORITY.....	163	206	202
DIVERSION CONTROL FEE.....	58	204	210
IMMIGRATION & NATURALIZATION FEES.....	0	0	0
CRIME VICTIMS FUND.....**	413	349	371
TOTAL DEPARTMENT OF JUSTICE.....	22,264	23,816	24,634

\*\* NOTE: For 1994 and 1995 grants are not by state, since historical information is not obligations.

DEPARTMENT OF JUSTICE  
GEOGRAPHIC DISTRIBUTION OF OBLIGATION  
(DOLLARS IN THOUSANDS)

## TENNESSEE

	1993 ACTUALS	1994 ESTIMATE	1995 ESTIMATE
<b>APPROPRIATION</b>			
GENERAL ADMINISTRATION.....			
INSPECTOR GENERAL.....			
CRIME CONTROL FUND.....**			
WEED AND SEED FUND.....**			
QUANTICO TRAINING CENTER.....			
U.S. PAROLE COMMISSION.....			
<b>GENERAL LEGAL ACTIVITIES:</b>			
SOLICITOR GENERAL.....			
TAX DIVISION.....			
CRIMINAL DIVISION.....	101	104	104
CIVIL DIVISION.....	70	75	75
ENVIRONMENT & NATURAL RESOURCES DIVISION			
OFFICE OF LEGAL COUNSEL.....			
CIVIL RIGHTS DIVISION.....			
INTERPOL.....			
LEGAL ACTIVITIES AUTOMATION.....			
SPECIAL COUNSEL FOR DISCRIMINATION.....			
TOTAL GENERAL LEGAL ACTIVITIES.....	171	179	179
<b>ANTITRUST DIVISION.....</b>			
US ATTORNEYS.....	12,585	13,382	13,134
FOREIGN CLAIMS SETTLEMENT COMMISSION			
US MARSHALS.....	4,104	4,558	5,242
SUPPORT OF U.S. PRISONERS.....	5,840	7,117	7,995
COMMUNITY RELATIONS SERVICE.....			
U.S. TRUSTEES.....	2,698	2,811	3,029
RADIATION COMPENSATION ADMIN EXP.....			
RADIATION COMPENSATION TRUST FUND.....	17		
ORGANIZED CRIME DRUG ENFORCEMENT.....	3,686	3,649	3,528
FEDERAL BUREAU OF INVESTIGATION.....	20,020	20,967	21,739
DRUG ENFORCEMENT ADMINISTRATION.....	2,013	1,665	960
IMMIGRATION & NATURALIZATION SERVICE.....	547	596	634
<b>FEDERAL PRISON SYSTEM:</b>			
SALARIES & EXPENSES.....	23,852	25,848	27,156
NATIONAL INSTITUTE OF CORRECTIONS.....			
BUILDINGS & FACILITIES.....	1,099	367	4,774
TOTAL, FEDERAL PRISON SYSTEM.....	24,951	26,215	31,932
<b>OFFICE OF JUSTICE PROGRAMS.....**</b>	12,854	10,961	1,149
<b>FEES &amp; EXPENSES OF WITNESSES.....</b>	1,497	1,545	1,591
INDEPENDENT COUNSEL.....			
CIVIL LIB. PUB. EDUCATION FUND.....			
PRE-MERGER FILING FEES.....			
PUBLIC SAFETY OFFICERS BENEFITS.....**	371		
ASSETS FOR FUND PERM BUDGET AUTHORITY	5,287	5,961	5,722
DIVERSION CONTROL FEE.....	291	1,020	1,052
IMMIGRATION & NATURALIZATION FEES.....	462	521	584
CRIME VICTIMS FUND.....**	5,296	3,641	1,405
<b>TOTAL DEPARTMENT OF JUSTICE.....</b>	<b>102,690</b>	<b>104,798</b>	<b>99,875</b>

DEPARTMENT OF JUSTICE  
GEOGRAPHIC DISTRIBUTION OF OBLIGATION  
(DOLLARS IN THOUSANDS)

	TEXAS		
	1993 ACTUALS	1994 ESTIMATE	1995 ESTIMATE
APPROPRIATION			
GENERAL ADMINISTRATION.....	4,171	4,747	4,983
INSPECTOR GENERAL.....	2,909	3,079	3,138
CRIME CONTROL FUND.....**			
WEED AND SEED FUND.....**	974		
QUANTICO TRAINING CENTER.....			
U.S. PAROLE COMMISSION.....	1,512	1,542	1,513
GENERAL LEGAL ACTIVITIES:			
SOLICITOR GENERAL.....			
TAX DIVISION.....	3,018	3,131	3,285
CRIMINAL DIVISION.....	1,727	1,784	1,780
CIVIL DIVISION.....	447	450	450
ENVIRONMENT & NATURAL RESOURCES DIV			
OFFICE OF LEGAL COUNSEL.....			
CIVIL RIGHTS DIVISION.....			
INTERPOL.....			
LEGAL ACTIVITIES AUTOMATION.....			
SPECIAL COUNSEL FOR DISCRIMINATION.....			
TOTAL GENERAL LEGAL ACTIVITIES.....	5,192	5,365	5,495
ANTITRUST DIVISION.....	1,981	2,068	2,107
US ATTORNEYS.....	54,530	57,984	58,909
FOREIGN CLAIMS SETTLEMENT COMMISSION			
US MARSHALS.....	16,663	18,725	21,535
SUPPORT OF U.S. PRISONERS.....	31,590	37,282	41,878
COMMUNITY RELATIONS SERVICE.....	2,540	2,369	1,778
U.S. TRUSTEES.....	5,508	5,748	6,193
RADIATION COMPENSATION ADMIN EXP.....			
RADIATION COMPENSATION TRUST FUND.....	35		
ORGANIZED CRIME DRUG ENFORCEMENT.....	37,450	37,298	35,831
FEDERAL BUREAU OF INVESTIGATION.....	102,618	107,449	111,427
DRUG ENFORCEMENT ADMINISTRATION.....	82,153	81,178	80,278
IMMIGRATION & NATURALIZATION SERVICE.....	225,433	246,680	261,748
FEDERAL PRISON SYSTEM:			
SALARIES & EXPENSES.....	204,118	225,509	260,612
NATIONAL INSTITUTE OF CORRECTIONS.....	20	17	17
BUILDINGS & FACILITIES.....	23,534	63,213	123,582
TOTAL, FEDERAL PRISON SYSTEM.....	227,672	288,739	384,411
OFFICE OF JUSTICE PROGRAMS.....**	31,530	31,791	4,678
FEES & EXPENSES OF WITNESSES.....	5,608	5,789	5,965
INDEPENDENT COUNSEL.....			
CIVIL LIB. PUB. EDUCATION FUND.....			
PRE-MERGER FILING FEES.....	735	1,202	1,274
PUBLIC SAFETY OFFICERS BENEFITS.....**	2,673	247	
ASSETS FOR FUND PERM BUDGET AUTHORI	35,895	39,931	38,516
DIVERSION CONTROL FEE.....	818	2,853	2,944
IMMIGRATION & NATURALIZATION FEES.....	29,658	33,395	37,000
CRIME VICTIMS FUND.....**	11,203	11,099	4,438
TOTAL DEPARTMENT OF JUSTICE.....	921,331	1,026,556	1,114,035

DEPARTMENT OF JUSTICE  
GEOGRAPHIC DISTRIBUTION OF OBLIGATIONS  
(DOLLARS IN THOUSANDS)

	UTAH		
	1993 ACTUALS	1994 ESTIMATE	1995 ESTIMATE
APPROPRIATION			
GENERAL ADMINISTRATION.....			
INSPECTOR GENERAL.....			
CRIME CONTROL FUND.....**			
WEED AND SEED FUND.....**			
QUANTICO TRAINING CENTER.....			
U.S. PAROLE COMMISSION.....			
GENERAL LEGAL ACTIVITIES:			
SOLICITOR GENERAL.....			
TAX DIVISION.....			
CRIMINAL DIVISION.....	53	55	55
CIVIL DIVISION.....	55	50	50
ENVIRONMENT & NATURAL RESOURCES DIV.			
OFFICE OF LEGAL COUNSEL.....			
CIVIL RIGHTS DIVISION.....			
INTERPOL.....			
LEGAL ACTIVITIES AUTOMATION.....			
SPECIAL COUNSEL FOR DISCRIMINATION.....			
TOTAL GENERAL LEGAL ACTIVITIES.....	108	105	105
ANTITRUST DIVISION.....			
US ATTORNEYS.....	4,218	4,465	4,402
FOREIGN CLAIMS SETTLEMENT COMMISSION			
US MARSHALS.....	1,283	1,425	1,636
SUPPORT OF U.S. PRISONERS.....	1,556	1,697	2,130
COMMUNITY RELATIONS SERVICE.....			
U.S. TRUSTEES.....	723	753	811
RADIATION COMPENSATION ADMIN EXP.....	18	18	20
RADIATION COMPENSATION TRUST FUND.....	26,099	19,000	11,350
ORGANIZED CRIME DRUG ENFORCEMENT.....	1,676	1,654	1,567
FEDERAL BUREAU OF INVESTIGATION.....	12,339	12,923	13,399
DRUG ENFORCEMENT ADMINISTRATION.....	763	714	578
IMMIGRATION & NATURALIZATION SERVICE.....	963	1,053	1,140
FEDERAL PRISON SYSTEM:			
SALARIES & EXPENSES.....			
NATIONAL INSTITUTE OF CORRECTIONS.....	25	21	21
BUILDINGS & FACILITIES.....			
TOTAL FEDERAL PRISON SYSTEM.....	25	21	21
OFFICE OF JUSTICE PROGRAMS.....**	4,225	3,631	603
FEES & EXPENSES OF WITNESSES.....	1,012	1,045	1,076
INDEPENDENT COUNSEL.....			
CIVIL LIB. PUB. EDUCATION FUND.....			
PRE-MERGER FILING FEES.....			
PUBLIC SAFETY OFFICERS BENEFITS.....**	247		
ASSETS FOR FUND PERM BUDGET AUTHORITY.....	1,613	2,045	1,963
DIVERSION CONTROL FEE.....	58	204	210
IMMIGRATION & NATURALIZATION FEES.....	345	391	441
CRIME VICTIMS FUND.....**	1,761	1,566	635
TOTAL DEPARTMENT OF JUSTICE.....	59,270	53,132	42,119

\*\* NOTE: For 1994 and 1995 grants are not by state, since historical information is not obligations.

DEPARTMENT OF JUSTICE  
GEOGRAPHIC DISTRIBUTION OF OBLIGATIONS  
(DOLLARS IN THOUSANDS)

## VERMONT

APPROPRIATION	1993 ACTUALS	1994 ESTIMATE	1995 ESTIMATE
GENERAL ADMINISTRATION.....			
INSPECTOR GENERAL.....			
CRIME CONTROL FUND.....**			
WEED AND SEED FUND.....**			
QUANTICO TRAINING CENTER.....			
U.S. PAROLE COMMISSION.....			
GENERAL LEGAL ACTIVITIES:			
SOLICITOR GENERAL.....			
TAX DIVISION.....			
CRIMINAL DIVISION.....	7	7	7
CIVIL DIVISION.....	17	15	15
ENVIRONMENT & NATURAL RESOURCES DIV.....			
OFFICE OF LEGAL COUNSEL.....			
CIVIL RIGHTS DIVISION.....			
INTERPOL.....			
LEGAL ACTIVITIES AUTOMATION.....			
SPECIAL COUNSEL FOR DISCRIMINATION.....			
TOTAL GENERAL LEGAL ACTIVITIES.....	24	22	22
ANTITRUST DIVISION.....			
US ATTORNEYS.....	2,695	2,866	2,813
FOREIGN CLAIMS SETTLEMENT COMMISSION			
US MARSHALS.....	1,043	1,159	1,332
SUPPORT OF U.S. PRISONERS.....	965	1,177	1,322
COMMUNITY RELATIONS SERVICE.....			
U.S. TRUSTEES.....			
RADIATION COMPENSATION ADMIN EXP.....			
RADIATION COMPENSATION TRUST FUND.....			
ORGANIZED CRIME DRUG ENFORCEMENT.....	378	376	364
FEDERAL BUREAU OF INVESTIGATION.....	1,259	1,319	1,367
DRUG ENFORCEMENT ADMINISTRATION.....	339	339	344
IMMIGRATION & NATURALIZATION SERVICE.....	18,477	19,809	21,454
FEDERAL PRISON SYSTEM:			
SALARIES & EXPENSES.....			
NATIONAL INSTITUTE OF CORRECTIONS.....			
BUILDINGS & FACILITIES.....			
TOTAL, FEDERAL PRISON SYSTEM.....	0	0	0
OFFICE OF JUSTICE PROGRAMS.....**	3,372	2,250	600
FEES & EXPENSES OF WITNESSES.....	87	90	93
INDEPENDENT COUNSEL.....			
CIVIL LIB. PUB. EDUCATION FUND.....			
PRE-MERGER FILING FEES.....			
PUBLIC SAFETY OFFICERS BENEFITS.....**			
ASSETS FOR FUND PERM BUDGET AUTHORI.....	1,102	1,244	1,194
DIVERSION CONTROL FEE.....			
IMMIGRATION & NATURALIZATION FEES.....	17,776	19,737	21,740
CRIME VICTIMS FUND.....**	365	465	337
TOTAL DEPARTMENT OF JUSTICE.....	47,682	50,853	52,982

\*\* NOTE: For 1994 and 1995 grants are not by state, since historical information is not obligations.

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(DOLLARS IN THOUSANDS)

## VIRGINIA

APPROPRIATION	1993 ACTUALS	1994 ESTIMATE	1995 ESTIMATE
GENERAL ADMINISTRATION.....	21,843	23,878	25,089
INSPECTOR GENERAL.....	2,456	0	0
CRIME CONTROL FUND.....**			
WEED AND SEED FUND.....**	487		
QUANTICO TRAINING CENTER.....	7,700		
U.S. PAROLE COMMISSION.....			
GENERAL LEGAL ACTIVITIES:			
SOLICITOR GENERAL.....			
TAX DIVISION.....			
CRIMINAL DIVISION.....	826	853	851
CIVIL DIVISION.....	29,831	30,746	31,004
ENVIRONMENT & NATURAL RESOURCES DIV			
OFFICE OF LEGAL COUNSEL.....			
CIVIL RIGHTS DIVISION.....			
INTERPOL.....			
LEGAL ACTIVITIES AUTOMATION.....			
SPECIAL COUNSEL FOR DISCRIMINATION.....			
TOTAL GENERAL LEGAL ACTIVITIES.....	30,657	31,599	31,855
ANTITRUST DIVISION.....			
US ATTORNEYS.....	17,054	18,134	17,798
FOREIGN CLAIMS SETTLEMENT COMMISSION			
US MARSHALS.....	140,762	90,445	54,870
SUPPORT OF U.S. PRISONERS.....	9,917	12,085	13,575
COMMUNITY RELATIONS SERVICE.....			
U.S. TRUSTEES.....	2,630	2,740	2,952
RADIATION COMPENSATION ADMIN EXP.....			
RADIATION COMPENSATION TRUST FUND.....	37		
ORGANIZED CRIME DRUG ENFORCEMENT.....	3,878	3,640	3,713
FEDERAL BUREAU OF INVESTIGATION.....	167,109	163,903	174,489
DRUG ENFORCEMENT ADMINISTRATION.....	339,861	339,406	343,211
IMMIGRATION & NATURALIZATION SERVICE ..	1,502	1,610	1,744
FEDERAL PRISON SYSTEM:			
SALARIES & EXPENSES.....	23,449	25,411	26,696
NATIONAL INSTITUTE OF CORRECTIONS.....	141	119	119
BUILDINGS & FACILITIES.....	1,667	500	8,341
TOTAL, FEDERAL PRISON SYSTEM.....	25,257	26,030	35,156
OFFICE OF JUSTICE PROGRAMS.....**	37,842	26,716	11,674
FEES & EXPENSES OF WITNESSES.....	1,232	1,272	1,309
INDEPENDENT COUNSEL.....			
CIVIL LIB. PUB. EDUCATION FUND.....			
PRE-MERGER FILING FEES.....			
PUBLIC SAFETY OFFICERS BENEFITS.....**	371		
ASSETS FOR FUND PERM BUDGET AUTHORI	22,020	23,801	23,464
DIVERSION CONTROL FEE.....	145	510	526
IMMIGRATION & NATURALIZATION FEES.....	6,666	7,402	8,154
CRIME VICTIMS FUND.....**	2,536	1,991	1,730
TOTAL DEPARTMENT OF JUSTICE.....	841,762	795,362	751,391

\*\* NOTE: For 1994 and 1995 grants are not by state, since historical information is not obligations.

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(DOLLARS IN THOUSANDS)

## WASHINGTON

	1993 ACTUALS	1994 ESTIMATE	1995 ESTIMATE
APPROPRIATION			
GENERAL ADMINISTRATION.....	505	530	556
INSPECTOR GENERAL.....	179	184	186
CRIME CONTROL FUND.....**			
WEED AND SEED FUND.....**	467		
QUANTICO TRAINING CENTER.....			
U.S. PAROLE COMMISSION.....			
GENERAL LEGAL ACTIVITIES:			
SOLICITOR GENERAL.....			
TAX DIVISION.....			
CRIMINAL DIVISION.....	21	21	21
CIVIL DIVISION.....	207	200	200
ENVIRONMENT & NATURAL RESOURCES DIV.....	263	269	318
OFFICE OF LEGAL COUNSEL.....			
CIVIL RIGHTS DIVISION.....			
INTERPOL.....			
LEGAL ACTIVITIES AUTOMATION.....			
SPECIAL COUNSEL FOR DISCRIMINATION.....			
TOTAL GENERAL LEGAL ACTIVITIES.....	491	510	539
ANTITRUST DIVISION.....			
US ATTORNEYS.....	12,026	12,766	12,551
FOREIGN CLAIMS SETTLEMENT COMMISSION.....			
US MARSHALS.....	4,342	4,822	5,545
SUPPORT OF U.S. PRISONERS.....	4,719	5,750	6,459
COMMUNITY RELATIONS SERVICE.....	516	542	574
U.S. TRUSTEES.....	2,427	2,529	2,724
RADIATION COMPENSATION ADMIN EXP.....			
RADIATION COMPENSATION TRUST FUND.....	419	300	250
ORGANIZED CRIME DRUG ENFORCEMENT.....	2,804	2,790	2,696
FEDERAL BUREAU OF INVESTIGATION.....	13,095	13,714	14,219
DRUG ENFORCEMENT ADMINISTRATION.....	6,294	6,016	5,518
IMMIGRATION & NATURALIZATION SERVICE.....	17,635	18,906	20,476
FEDERAL PRISON SYSTEM:			
SALARIES & EXPENSES.....			
NATIONAL INSTITUTE OF CORRECTIONS.....	15	13	13
BUILDINGS & FACILITIES.....	295	52,345	1,500
TOTAL, FEDERAL PRISON SYSTEM.....	310	52,358	1,513
OFFICE OF JUSTICE PROGRAMS.....**	12,805	12,365	1,250
FEES & EXPENSES OF WITNESSES.....	2,010	2,074	2,136
INDEPENDENT COUNSEL.....			
CIVIL LIB. PUB. EDUCATION FUND.....			
PRE-MERGER FILING FEES.....			
PUBLIC SAFETY OFFICERS BENEFITS.....**	261	124	
ASSETS FORF FUND PERM BUDGET AUTHORI.....	5,813	6,526	6,261
DIVERSION CONTROL FEE.....	232	616	641
IMMIGRATION & NATURALIZATION FEES.....	7,636	6,499	9,366
CRIME VICTIMS FUND.....**	3,952	5,147	1,432
TOTAL DEPARTMENT OF JUSTICE.....	98,958	157,292	95,136

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GEOGRAPHIC DISTRIBUTION OF OBLIGATIONS  
(DOLLARS IN THOUSANDS)

## WEST VIRGINIA

APPROPRIATION	1993 ACTUALS	1994 ESTIMATE	1995 ESTIMATE
GENERAL ADMINISTRATION.....			
INSPECTOR GENERAL.....			
CRIME CONTROL FUND.....**			
WEED AND SEED FUND.....**			
QUANTICO TRAINING CENTER.....			
U.S. PAROLE COMMISSION.....			
GENERAL LEGAL ACTIVITIES:			
SOLICITOR GENERAL.....			
TAX DIVISION.....			
CRIMINAL DIVISION.....			
CIVIL DIVISION.....	0	0	0
ENVIRONMENT & NATURAL RESOURCES DIV.			
OFFICE OF LEGAL COUNSEL.....			
CIVIL RIGHTS DIVISION.....			
INTERPOL.....			
LEGAL ACTIVITIES AUTOMATION.....			
SPECIAL COUNSEL FOR DISCRIMINATION.....			
TOTAL GENERAL LEGAL ACTIVITIES.....	0	0	0
ANTITRUST DIVISION.....			
US ATTORNEYS.....	6,191	6,583	6,461
FOREIGN CLAIMS SETTLEMENT COMMISSION			
US MARSHALS.....	2,582	2,668	3,298
SUPPORT OF U.S. PRISONERS.....	2,207	2,669	3,021
COMMUNITY RELATIONS SERVICE.....			
U.S. TRUSTEES.....	618	644	694
RADIATION COMPENSATION ADMIN EXP.....			
RADIATION COMPENSATION TRUST FUND.....			
ORGANIZED CRIME DRUG ENFORCEMENT.....	1,241	1,235	1,195
FEDERAL BUREAU OF INVESTIGATION.....	127,638	186,594	77,482
DRUG ENFORCEMENT ADMINISTRATION.....	397	327	187
IMMIGRATION & NATURALIZATION SERVICE.....	49	52	56
FEDERAL PRISON SYSTEM:			
SALARIES & EXPENSES.....	29,959	32,468	53,891
NATIONAL INSTITUTE OF CORRECTIONS.....			
BUILDINGS & FACILITIES.....	59,070	3,203	10,968
TOTAL, FEDERAL PRISON SYSTEM.....	89,029	35,671	64,859
OFFICE OF JUSTICE PROGRAMS.....**	5,133	4,180	1,060
FEES & EXPENSES OF WITNESSES.....	1,138	1,174	1,210
INDEPENDENT COUNSEL.....			
CIVIL LIB. PUB. EDUCATION FUND.....			
PRE-MERGER FILING FEES.....			
PUBLIC SAFETY OFFICERS BENEFITS.....**	124		
ASSETS FOR FUND PERM BUDGET AUTHORITY.....	669	1,000	961
DIVERSION CONTROL FEE.....	58	204	210
IMMIGRATION & NATURALIZATION FEES.....	1	1	1
CRIME VICTIMS FUND.....**	653	759	635
TOTAL DEPARTMENT OF JUSTICE.....	236,154	243,981	161,348

\*\* NOTE: For 1994 and 1995 grants are not by state, since historical information is not obligations.

DEPARTMENT OF JUSTICE  
GEOGRAPHIC DISTRIBUTION OF OBLIGATIONS  
(DOLLARS IN THOUSANDS)

	WISCONSIN		
	1993 ACTUALS	1994 ESTIMATE	1995 ESTIMATE
APPROPRIATION			
GENERAL ADMINISTRATION.....			
INSPECTOR GENERAL.....			
CRIME CONTROL FUND.....**			
WEED AND SEED FUND.....**	487		
QUANTICO TRAINING CENTER.....			
U.S. PAROLE COMMISSION.....			
GENERAL LEGAL ACTIVITIES:			
SOLICITOR GENERAL.....			
TAX DIVISION.....			
CRIMINAL DIVISION.....	8	8	8
CIVIL DIVISION.....	25	25	25
ENVIRONMENT & NATURAL RESOURCES DIV.			
OFFICE OF LEGAL COUNSEL.....			
CIVIL RIGHTS DIVISION.....			
INTERPOL.....			
LEGAL ACTIVITIES AUTOMATION.....			
SPECIAL COUNSEL FOR DISCRIMINATION.....			
TOTAL GENERAL LEGAL ACTIVITIES.....	33	33	33
ANTITRUST DIVISION.....			
US ATTORNEYS.....	6,717	7,142	7,010
FOREIGN CLAIMS SETTLEMENT COMMISSION			
US MARSHALS.....	2,077	2,307	2,653
SUPPORT OF U.S. PRISONERS.....	2,546	2,659	3,212
COMMUNITY RELATIONS SERVICE.....			
U.S. TRUSTEES.....	1,233	1,285	1,384
RADIATION COMPENSATION ADMIN EXP.....			
RADIATION COMPENSATION TRUST FUND.....	75		
ORGANIZED CRIME DRUG ENFORCEMENT.....	1,764	1,752	1,694
FEDERAL BUREAU OF INVESTIGATION.....	9,517	9,758	10,117
DRUG ENFORCEMENT ADMINISTRATION.....	882	792	858
IMMIGRATION & NATURALIZATION SERVICE.....	491	527	570
FEDERAL PRISON SYSTEM:			
SALARIES & EXPENSES.....	19,046	20,842	21,866
NATIONAL INSTITUTE OF CORRECTIONS.....	34	29	29
BUILDINGS & FACILITIES.....	2,863	500	4,999
TOTAL, FEDERAL PRISON SYSTEM.....	21,945	21,371	26,716
OFFICE OF JUSTICE PROGRAMS.....**	10,513	6,782	1,227
FEES & EXPENSES OF WITNESSES.....	951	961	1,011
INDEPENDENT COUNSEL.....			
CIVIL LIB. PUB. EDUCATION FUND.....			
PRE-MERGER FILING FEES.....			
PUBLIC SAFETY OFFICERS BENEFITS.....**	505	247	
ASSETS FOR FUND PERM BUDGET AUTHORITY.....	2,273	2,564	2,460
DIVERSION CONTROL FEE.....	58	204	210
IMMIGRATION & NATURALIZATION FEES.....	270	300	330
CRIME VICTIMS FUND.....**	1,786	1,739	1,401
TOTAL DEPARTMENT OF JUSTICE.....	63,703	62,643	60,666

\*\* NOTE: For 1994 and 1995 grants are not by state, since historical information is not obligations.

DEPARTMENT OF JUSTICE  
GEOGRAPHIC DISTRIBUTION OF OBLIGATION  
(DOLLARS IN THOUSANDS)

	WYOMING		
	1993 ACTUALS	1994 ESTIMATE	1995 ESTIMATE
APPROPRIATION			
GENERAL ADMINISTRATION.....			
INSPECTOR GENERAL.....			
CRIME CONTROL FUND.....**			
WEED AND SEED FUND.....**			
QUANTICO TRAINING CENTER.....			
U.S. PAROLE COMMISSION.....			
GENERAL LEGAL ACTIVITIES:			
SOLICITOR GENERAL.....			
TAX DIVISION.....			
CRIMINAL DIVISION.....			
CIVIL DIVISION.....	1	0	0
ENVIRONMENT & NATURAL RESOURCES DIV.....			
OFFICE OF LEGAL COUNSEL.....			
CIVIL RIGHTS DIVISION.....			
INTERPOL.....			
LEGAL ACTIVITIES AUTOMATION.....			
SPECIAL COUNSEL FOR DISCRIMINATION.....			
TOTAL GENERAL LEGAL ACTIVITIES.....	1	0	0
ANTITRUST DIVISION.....			
US ATTORNEYS.....	2,625	2,791	2,739
FOREIGN CLAIMS SETTLEMENT COMMISSION.....			
US MARSHALS.....	1,009	1,121	1,269
SUPPORT OF U.S. PRISONERS.....	472	575	646
COMMUNITY RELATIONS SERVICE.....			
U.S. TRUSTEES.....	418	436	470
RADIATION COMPENSATION ADMIN EXP.....			
RADIATION COMPENSATION TRUST FUND.....	642	500	400
ORGANIZED CRIME DRUG ENFORCEMENT.....	299	296	266
FEDERAL BUREAU OF INVESTIGATION.....	1,511	1,582	1,641
DRUG ENFORCEMENT ADMINISTRATION.....	294	294	296
IMMIGRATION & NATURALIZATION SERVICE.....			
FEDERAL PRISON SYSTEM:			
SALARIES & EXPENSES.....			
NATIONAL INSTITUTE OF CORRECTIONS.....			
BUILDINGS & FACILITIES.....			
TOTAL, FEDERAL PRISON SYSTEM.....	0	0	0
OFFICE OF JUSTICE PROGRAMS.....**	1,713	2,920	600
FEES & EXPENSES OF WITNESSES.....	543	561	578
INDEPENDENT COUNSEL.....			
CIVIL LIB. PUB. EDUCATION FUND.....			
PRE-MERGER FILING FEES.....			
PUBLIC SAFETY OFFICERS BENEFITS.....**	234	124	
ASSETS FOR FUND PERM BUDGET AUTHORITY.....	366	410	395
DIVERSION CONTROL FEE.....			
IMMIGRATION & NATURALIZATION FEES.....	55	61	67
CRIME VICTIMS FUND.....**	406	369	312
TOTAL DEPARTMENT OF JUSTICE.....	10,588	12,062	9,723

\*\* NOTE: For 1994 and 1995 grants are not by state, since historical information is not obligations.

DEPARTMENT OF JUSTICE  
GEOGRAPHIC DISTRIBUTION OF OBLIGATION  
(DOLLARS IN THOUSANDS)

TOTAL 50 STATES

APPROPRIATION	1963 ACTUALS	1964 ESTIMATE	1965 ESTIMATE
GENERAL ADMINISTRATION.....	42,182	47,253	49,607
INSPECTOR GENERAL.....	16,914	14,691	15,180
CRIME CONTROL FUND.....**	0	0	0
WEED AND SEED FUND.....**	11,375	0	0
QUANTICO TRAINING CENTER.....	7,700	0	0
U.S. PAROLE COMMISSION.....	8,975	9,123	8,951
 GENERAL LEGAL ACTIVITIES:			
SOLICITOR GENERAL.....	0	0	0
TAX DIVISION.....	3,018	3,131	3,265
CRIMINAL DIVISION.....	4,666	5,047	5,036
CIVIL DIVISION.....	66,539	68,489	69,470
ENVIRONMENT & NATURAL RESOURCES DIV.	3,049	3,341	3,676
OFFICE OF LEGAL COUNSEL.....	0	0	0
CIVIL RIGHTS DIVISION.....	0	0	0
INTERPOL.....	0	0	0
LEGAL ACTIVITIES AUTOMATION.....	0	0	0
SPECIAL COUNSEL FOR DISCRIMINATION.....	0	0	0
TOTAL GENERAL LEGAL ACTIVITIES.....	77,492	80,008	81,449
 ANTITRUST DIVISION.....	18,514	19,310	19,895
US ATTORNEYS.....	697,970	742,181	726,418
FOREIGN CLAIMS SETTLEMENT COMMISSION	0	0	0
US MARSHALS.....	334,816	305,950	302,604
SUPPORT OF U.S. PRISONERS.....	257,319	310,550	348,830
COMMUNITY RELATIONS SERVICE.....	14,463	13,893	11,536
U.S. TRUSTEES.....	64,043	67,581	64,355
RADIATION COMPENSATION ADMIN EXP.....	133	141	153
RADIATION COMPENSATION TRUST FUND.....	57,190	41,000	29,900
ORGANIZED CRIME DRUG ENFORCEMENT.....	295,514	293,182	283,279
FEDERAL BUREAU OF INVESTIGATION.....	1,456,841	1,582,318	1,508,563
DRUG ENFORCEMENT ADMINISTRATION.....	663,922	651,457	634,540
IMMIGRATION & NATURALIZATION SERVICE.....	736,272	820,859	880,859
 FEDERAL PRISON SYSTEM:			
SALARIES & EXPENSES.....	1,574,267	1,796,082	2,212,503
NATIONAL INSTITUTE OF CORRECTIONS.....	9,510	6,064	6,064
BUILDINGS & FACILITIES.....	521,171	477,300	724,871
TOTAL, FEDERAL PRISON SYSTEM.....	2,104,968	2,281,446	2,945,438
 OFFICE OF JUSTICE PROGRAMS.....**	566,111	544,201	67,446
 FEES & EXPENSES OF WITNESSES.....	70,440	72,695	74,878
INDEPENDENT COUNSEL.....	0	0	0
CIVIL LIB. PUB. EDUCATION FUND.....	0	0	0
PRE-MERGER FILING FEES.....	6,873	11,237	11,911
PUBLIC SAFETY OFFICERS BENEFITS.....**	23,082	6,572	0
ASSETS FOR FUND PERM BUDGET AUTHORITY	352,209	394,620	380,269
DIVERSION CONTROL FEE.....	10,402	36,513	37,647
IMMIGRATION & NATURALIZATION FEES.....	292,005	325,357	359,707
CRIME VICTIMS FUND.....**	136,978	124,877	71,015
 TOTAL DEPARTMENT OF JUSTICE.....	8,366,483	8,817,195	8,967,430

DEPARTMENT OF JUSTICE  
GEOGRAPHIC DISTRIBUTION OF OBLIGATIONS  
(DOLLARS IN THOUSANDS)

	D.C.		
	1993 ACTUALS	1994 ESTIMATE	1995 ESTIMATE
APPROPRIATION			
GENERAL ADMINISTRATION.....	70,354	71,621	72,006
INSPECTOR GENERAL.....	13,320	15,066	15,402
CRIME CONTROL FUND.....**			
WEED AND SEED FUND.....**	808		
QUANTICO TRAINING CENTER.....			
U.S. PAROLE COMMISSION.....			
GENERAL LEGAL ACTIVITIES:			
SOLICITOR GENERAL.....	5,460	5,636	6,181
TAX DIVISION.....	53,472	56,332	56,616
CRIMINAL DIVISION.....	65,277	69,776	69,616
CIVIL DIVISION.....	40,302	47,563	52,396
ENVIRONMENT & NATURAL RESOURCES DIV.....	46,439	50,023	57,904
OFFICE OF LEGAL COUNSEL.....	3,466	3,621	3,991
CIVIL RIGHTS DIVISION.....	53,657	54,536	72,185
INTERPOL.....	6,181	6,406	6,485
LEGAL ACTIVITIES AUTOMATION.....	27,195	22,315	22,809
SPECIAL COUNSEL FOR DISCRIMINATION.....	4,229	4,369	0
TOTAL GENERAL LEGAL ACTIVITIES.....	305,676	320,799	347,987
ANTITRUST DIVISION.....	27,049	26,687	22,227
US ATTORNEYS.....	65,955	91,400	69,705
FOREIGN CLAIMS SETTLEMENT COMMISSION.....	665	940	635
US MARSHALS.....	14,742	31,356	56,062
SUPPORT OF U.S. PRISONERS.....	12,406	15,121	16,965
COMMUNITY RELATIONS SERVICE.....	13,176	16,564	6,661
U.S. TRUSTEES.....	10,273	13,190	11,534
RADIATION COMPENSATION ADMIN EXP.....	1,026	2,527	2,502
RADIATION COMPENSATION TRUST FUND.....			
ORGANIZED CRIME DRUG ENFORCEMENT.....	7,161	7,250	7,263
FEDERAL BUREAU OF INVESTIGATION.....	559,091	576,909	565,077
DRUG ENFORCEMENT ADMINISTRATION.....	6,225	6,726	3,669
IMMIGRATION & NATURALIZATION SERVICE.....	211,145	227,974	245,366
FEDERAL PRISON SYSTEM:			
SALARIES & EXPENSES.....	162,006	174,340	184,056
NATIONAL INSTITUTE OF CORRECTIONS.....	2,532	2,412	2,060
BUILDINGS & FACILITIES.....	5,367	2,332	9,225
TOTAL, FEDERAL PRISON SYSTEM.....	169,925	179,084	195,361
OFFICE OF JUSTICE PROGRAMS.....**	76,667	26,479	2,669
FEES & EXPENSES OF WITNESSES.....	14,145	14,599	15,037
INDEPENDENT COUNSEL.....	12,226	4,661	2,600
CIVIL LIB. PUB. EDUCATION FUND.....	499,974	100,000	5,000
PRE-MERGER FILING FEES.....	10,041	14,669	21,549
PUBLIC SAFETY OFFICERS BENEFITS.....**	124		
ASSETS FOR FUND PERM BUDGET AUTHORITY.....	1,602	1,966	1,926
DIVERSION CONTROL FEE.....	1,249	4,366	4,522
IMMIGRATION & NATURALIZATION FEES.....	215,277	263,191	264,072
CRIME VICTIMS FUND.....**	10,712	472	341
TOTAL DEPARTMENT OF JUSTICE.....	2,354,781	2,036,203	2,016,820

\*\* NOTE: For 1994 and 1995 grants are not by state, since historical information is not available.

DEPARTMENT OF JUSTICE  
GEOGRAPHIC DISTRIBUTION OF OBLIGATIONS  
(DOLLARS IN THOUSANDS)

## PUERTO RICO

	1993 ACTUALS	1994 ESTIMATE	1995 ESTIMATE
APPROPRIATION			
GENERAL ADMINISTRATION.....	0	216	227
INSPECTOR GENERAL.....	172	21	0
CRIME CONTROL FUND.....**			
WEED AND SEED FUND.....**			
QUANTICO TRAINING CENTER.....			
U.S. PAROLE COMMISSION.....			
GENERAL LEGAL ACTIVITIES:			
SOLICITOR GENERAL.....			
TAX DIVISION.....			
CRIMINAL DIVISION.....	131	135	135
CIVIL DIVISION.....	54	75	75
ENVIRONMENT & NATURAL RESOURCES DIV.			
OFFICE OF LEGAL COUNSEL.....			
CIVIL RIGHTS DIVISION.....			
INTERPOL.....			
LEGAL ACTIVITIES AUTOMATION.....			
SPECIAL COUNSEL FOR DISCRIMINATION.....			
TOTAL GENERAL LEGAL ACTIVITIES.....	185	210	210
ANTITRUST DIVISION.....			
US ATTORNEYS.....	5,833	6,202	6,087
FOREIGN CLAIMS SETTLEMENT COMMISSION			
US MARSHALS.....	2,878	3,198	3,878
SUPPORT OF U.S. PRISONERS.....	1,958	2,366	2,680
COMMUNITY RELATIONS SERVICE.....			
U.S. TRUSTEES.....	680	686	741
RADIATION COMPENSATION ADMIN EXP.			
RADIATION COMPENSATION TRUST FUND.....			
ORGANIZED CRIME DRUG ENFORCEMENT.....	2,701	2,852	2,573
FEDERAL BUREAU OF INVESTIGATION.....	14,808	15,296	15,880
DRUG ENFORCEMENT ADMINISTRATION.....	2,864	2,246	1,404
IMMIGRATION & NATURALIZATION SERVICE.....	6,237	6,687	7,242
FEDERAL PRISON SYSTEM:			
SALARIES & EXPENSES.....	14,181	15,378	16,157
NATIONAL INSTITUTE OF CORRECTIONS.....			
BUILDINGS & FACILITIES.....	2,011	1,133	1,604
TOTAL, FEDERAL PRISON SYSTEM.....	16,202	16,511	17,761
OFFICE OF JUSTICE PROGRAMS.....**	7,754	6,182	1,065
FEES & EXPENSES OF WITNESSES.....	163	166	173
INDEPENDENT COUNSEL.....			
CIVIL LIB. PUB. EDUCATION FUND.....			
PRE-MERGER FILING FEES.....			
PUBLIC SAFETY OFFICERS BENEFITS.....**	1,578	606	
ASSETS FORF FUND PERM BUDGET AUTHORI	4,424	5,006	4,798
DIVERSION CONTROL FEE.....	349	1,224	1,262
IMMIGRATION & NATURALIZATION FEES.....	5,487	6,109	6,749
CRIME VICTIMS FUND.....**	990	936	1,045
TOTAL DEPARTMENT OF JUSTICE.....	74,841	76,556	73,551

\*\* NOTE: For 1994 and 1995 grants are not by state, since historical information is not obligations.

DEPARTMENT OF JUSTICE  
GEOGRAPHIC DISTRIBUTION OF OBLIGATIONS  
(DOLLARS IN THOUSANDS)

	1993 ACTUALS	1994 ESTIMATE	1995 ESTIMATE
OTHER			
APPROPRIATION			
GENERAL ADMINISTRATION.....			
INSPECTOR GENERAL.....			
CRIME CONTROL FUND.....**			2,423,000
WEED AND SEED FUND.....**		13,586	13,964
QUANTICO TRAINING CENTER.....			1
U.S. PAROLE COMMISSION.....			
GENERAL LEGAL ACTIVITIES:			
SOLICITOR GENERAL.....			
TAX DIVISION.....			
CRIMINAL DIVISION.....	729	751	750
CIVIL DIVISION.....	2,636	2,200	2,300
ENVIRONMENT & NATURAL RESOURCES DIVISION.....			
OFFICE OF LEGAL COUNSEL.....			
CIVIL RIGHTS DIVISION.....			
INTERPOL.....			
LEGAL ACTIVITIES AUTOMATION.....			
SPECIAL COUNSEL FOR DISCRIMINATION.....			
TOTAL GENERAL LEGAL ACTIVITIES.....	3,365	2,951	3,050
ANTITRUST DIVISION.....			
US ATTORNEYS.....	5,854	6,225	6,110
FOREIGN CLAIMS SETTLEMENT COMMISSION.....			
US MARSHALS.....	2,614	2,902	3,338
SUPPORT OF U.S. PRISONERS.....	1,036	1,265	1,421
COMMUNITY RELATIONS SERVICE.....			
U.S. TRUSTEES.....	24	25	27
RADIATION COMPENSATION ADMIN EXP.....			
RADIATION COMPENSATION TRUST FUND.....			
ORGANIZED CRIME DRUG ENFORCEMENT.....	79,806	79,563	76,826
FEDERAL BUREAU OF INVESTIGATION.....	14,397	17,301	17,261
DRUG ENFORCEMENT ADMINISTRATION.....	82,919	82,919	84,061
IMMIGRATION & NATURALIZATION SERVICE.....	13,796	14,792	16,021
FEDERAL PRISON SYSTEM:			
SALARIES & EXPENSES.....			
NATIONAL INSTITUTE OF CORRECTIONS.....			
BUILDINGS & FACILITIES.....	0	36,000	0
TOTAL, FEDERAL PRISON SYSTEM.....	0	36,000	0
OFFICE OF JUSTICE PROGRAMS.....**	4,130	260,080	273,513
FEES & EXPENSES OF WITNESSES.....	356	369	380
INDEPENDENT COUNSEL.....			
CIVIL LIB. PUB. EDUCATION FUND.....			
PRE-MERGER FILING FEES.....			
PUBLIC SAFETY OFFICERS BENEFITS.....**		23,641	29,717
ASSETS FOR FUND PERM BUDGET AUTHORITY.....	124,400	174,049	100,009
DIVERSION CONTROL FEE.....			
IMMIGRATION & NATURALIZATION FEES.....	31,566	35,071	36,632
CRIME VICTIMS FUND.....**	979	13,469	87,617
TOTAL DEPARTMENT OF JUSTICE.....	385,270	784,230	3,175,209

\*\* NOTE: For 1994 and 1995 grants are not by state, since historical information is not available.

DEPARTMENT OF JUSTICE  
GEOGRAPHIC DISTRIBUTION OF OBLIGATIONS  
(DOLLARS IN THOUSANDS)

## GRAND TOTAL

APPROPRIATION	1993 ACTUALS	1994 ESTIMATE	1995 ESTIMATE
GENERAL ADMINISTRATION.....	112,518	119,090	121,842
INSPECTOR GENERAL.....	30,406	30,000	30,582
CRIME CONTROL FUND.....**	0	0	2,423,000
WEED AND SEED FUND.....**	12,184	13,568	13,984
QUANTICO TRAINING CENTER.....	7,700	0	0
U.S. PAROLE COMMISSION.....	8,975	9,123	8,951
<b>GENERAL LEGAL ACTIVITIES:</b>			
SOLICITOR GENERAL.....	5,480	5,636	6,181
TAX DIVISION.....	58,400	59,463	59,863
CRIMINAL DIVISION.....	71,023	75,709	75,541
CIVIL DIVISION.....	109,531	118,327	124,241
ENVIRONMENT & NATURAL RESOURCES DIVK	49,488	53,364	61,580
OFFICE OF LEGAL COUNSEL.....	3,486	3,821	3,991
CIVIL RIGHTS DIVISION.....	53,857	54,536	72,185
INTERPOL.....	6,181	6,406	6,485
LEGAL ACTIVITIES AUTOMATION.....	27,195	22,315	22,809
SPECIAL COUNSEL FOR DISCRIMINATION.....	4,229	4,389	0
TOTAL GENERAL LEGAL ACTIVITIES.....	386,920	403,968	432,696
ANTITRUST DIVISION.....	45,563	45,997	41,922
US ATTORNEYS.....	795,612	846,006	830,320
FOREIGN CLAIMS SETTLEMENT COMMISSION	885	940	835
US MARSHALS.....	355,050	343,406	365,900
SUPPORT OF U.S. PRISONERS.....	272,723	329,322	369,916
COMMUNITY RELATIONS SERVICE.....	27,639	30,457	20,417
U.S. TRUSTEES.....	95,000	101,484	106,657
RADIATION COMPENSATION ADMIN EXP.....	2,061	2,668	2,655
RADIATION COMPENSATION TRUST FUND.....	57,190	41,000	29,900
ORGANIZED CRIME DRUG ENFORCEMENT.....	385,204	362,637	369,943
FEDERAL BUREAU OF INVESTIGATION.....	2,046,735	2,193,824	2,127,781
DRUG ENFORCEMENT ADMINISTRATION.....	757,730	743,350	723,714
IMMIGRATION & NATURALIZATION SERVICE....	967,452	1,070,312	1,149,488
<b>FEDERAL PRISON SYSTEM:</b>			
SALARIES & EXPENSES.....	1,750,484	1,985,800	2,412,716
NATIONAL INSTITUTE OF CORRECTIONS.....	12,042	10,478	10,144
BUILDINGS & FACILITIES.....	528,569	518,765	735,700
TOTAL, FEDERAL PRISON SYSTEM.....	2,291,095	2,515,041	3,158,560
OFFICE OF JUSTICE PROGRAMS.....**	676,882	858,942	364,693
FEES & EXPENSES OF WITNESSES.....	85,106	87,831	90,468
INDEPENDENT COUNSEL.....	12,226	4,981	2,800
CIVIL LIB. PUB. EDUCATION FUND.....	499,974	100,000	5,000
PRE-MERGER FILING FEES.....	16,914	26,126	33,460
PUBLIC SAFETY OFFICERS BENEFITS.....**	24,784	30,821	29,717
ASSETS FOR FUND PERM BUDGET AUTHORI	482,835	575,641	487,000
DIVERSION CONTROL FEE.....	12,000	42,123	43,431
IMMIGRATION & NATURALIZATION FEES.....	544,355	629,726	689,160
CRIME VICTIMS FUND.....**	149,659	139,776	160,218
<b>TOTAL DEPARTMENT OF JUSTICE.....</b>	<b>11,163,375</b>	<b>11,716,184</b>	<b>14,235,010</b>

\*\* NOTE: For 1994 and 1995 grants are not by state, since historical information is not in obligations.

APPROPRIATION	1993 ACTUALS	1994 ESTIMATE	1995 ESTIMATE
ALABAMA.....	90,863	92,778	91,453
ALASKA.....	22,234	24,727	23,145
ARIZONA.....	195,712	205,703	208,378
ARKANSAS.....	32,540	78,716	37,086
CALIFORNIA.....	1,024,457	1,194,407	1,097,088
COLORADO.....	151,134	177,770	222,792
CONNECTICUT.....	70,487	70,180	69,401
DELAWARE.....	10,748	12,980	8,949
FLORIDA.....	587,299	527,099	547,800
GEORGIA.....	213,860	225,227	242,898
HAWAII.....	47,488	55,009	49,439
IDAHO.....	20,893	18,118	18,332
ILLINOIS.....	254,326	275,240	327,650
INDIANA.....	81,266	90,080	88,929
IOWA.....	27,135	28,285	22,750
KANSAS.....	94,805	99,795	111,712
KENTUCKY.....	124,443	140,058	142,828
LOUISIANA.....	136,877	141,879	144,302
MAINE.....	23,739	24,740	23,143
MARYLAND.....	164,025	161,887	198,389
MASSACHUSETT.....	112,990	127,434	198,799
MICHIGAN.....	157,801	166,947	160,148
MINNESOTA.....	118,115	123,199	148,888
MISSISSIPPI.....	34,598	86,065	38,939
MISSOURI.....	150,833	156,381	154,568
MONTANA.....	21,363	22,982	21,419
NEBRASKA.....	32,979	34,819	33,110
NEVADA.....	53,184	53,248	50,960
NEW HAMPSHIRE.....	10,376	11,397	8,674
NEW JERSEY.....	189,147	197,733	224,100
NEW MEXICO.....	60,581	61,645	59,987
NEW YORK.....	778,630	719,304	704,244
NORTH CAROLINA.....	145,905	110,528	117,021
NORTH DAKOTA.....	12,853	13,327	11,970
OHIO.....	119,227	136,879	172,971
OKLAHOMA.....	85,461	91,538	117,782
OREGON.....	72,979	78,784	79,950
PENNSYLVANIA.....	353,908	372,189	471,397
RHODE ISLAND.....	18,999	17,445	15,581
SOUTH CAROLINA.....	59,821	62,620	94,363
SOUTH DAKOTA.....	22,264	23,818	24,834
TENNESSEE.....	102,890	104,798	99,875
TEXAS.....	921,331	1,028,556	1,114,035
UTAH.....	59,270	53,132	42,119
VERMONT.....	47,882	50,853	52,982
VIRGINIA.....	641,782	795,382	751,391
WASHINGTON.....	98,958	157,292	95,138
WEST VIRGINIA.....	236,154	243,981	181,348
WISCONSIN.....	63,703	62,643	60,688
WYOMING.....	10,588	12,082	9,723
TOTAL 50 STATES.....	3,368,483	8,817,195	8,987,430
D.C.....	2,354,781	2,038,203	2,018,820
PUERTO RICO.....	74,641	78,558	73,551
OTHER & CRIME CONTROL FUND.....	365,270	784,230	3,175,209
GRAND TOTAL.....	11,163,375	11,718,184	14,235,010
Percent to estimate			

\* NOTE: OTHER includes payments made in U. S. Territories. Payments to non U. S. Territories are also included in OTHER. For 1995 the Crime Control Fund is included as undistributed.

QUESTIONS SUBMITTED BY SENATOR ROBERT C. BYRD

Revitalization and Relocation of the Criminal Justice  
Information Services Division

QUESTION: Attorney General Reno, in response to one of my questions from the fiscal year 1993 Commerce, Justice, State, and Department of Justice hearing, former FBI Director Sessions provided the committee the following answer on the importance of revitalization of the FBI's Identification Division to law enforcement:

ANSWER: Revitalization of the Identification Division is critical to the ultimate effectiveness of the law enforcement community against the criminal element in today's society. We live in a transient society with a transient crime problem. This necessitates a national data base, or alternatively, a national pointer system, to determine the criminal history of an individual. A large number of criminals use false identities, necessitating a national system to identify criminals positively in order to match criminal history records with individuals. The only system currently available for determining positive identifications and criminal history records on a national scale is the FBI's Identification Division. Presently, the FBI's ability to service law enforcement is hampered by several adverse conditions:

- ♦ Backlogs of 8.8 million manual criminal history records, 3.8 million criminal dispositions and over 775,000 fingerprint cards exist.
- ♦ A current average time for positive identifications based on fingerprint cards is about 20 days. Consequently, such identifications are of little or no value to law enforcement at the time of arrest or for the setting of bond, permitting individuals with egregious criminal records or fugitives to walk away from booking stations because their true identity or criminal history record cannot be timely determined.
- ♦ The ability to identify an individual by latent fingerprints left at the scene of crimes is primarily limited to known suspects in the current system.
- ♦ Due to existing inadequacies, it is estimated that the FBI does not receive one-third of all criminal arrests.

By revitalizing the FBI's Identification Division, the system providing national access to criminal history records and the nations's repository of fingerprint cards will regain its status as an essential tool of law enforcement. A revitalized Identification Division will:

- ♦ allow the identification of fugitives while they are still in the booking stations, or the determination of an individual's criminal history record, for the purpose of setting bond;
- ♦ more quickly identify law enforcement applicants with disqualifying criminal records and,
- ♦ provide the ability to 'cold-search' latent fingerprints left at crime scenes against a large data base, solving thousands of previously unsolvable crimes.

In addition, a revitalized Identification Division will support:

- ♦ the Felon Identification in Firearm Sales, as mandated the Anti-Drug Abuse Act of 1988, Section 6213, P.L. 101-690. This will be the only practical system available to determine positively if a person has a felony record. Existing systems are based on name checks only and are easily foiled by use of false identities;
- ♦ the requirement under the Anti-Drug Abuse Act of 1988, Section 464, P.L. 101-690 for a system to make a positive identification of all persons crossing the border;
- ♦ the Aviation Security Act, P.L. 101-604, requiring background checks, including fingerprint checks for all persons employed in aviation travel;
- ♦ Federal child-care providers' provisions of the Crime Control Act of 1990, Section 3266, P.L. 101-647; and,
- ♦ the determination if persons applying for sensitive positions (banks, day-care centers, adoptions, schools, National Security clearances, etc.,) have criminal records. Each year approximately 125,000 individuals applying for Federal employment are determined to have serious criminal records.

Revitalization will also increase the effectiveness of law enforcement:

- ♦ Investigative time is saved in those investigations where an identification is made through latent prints as opposed to manpower-intensive investigations.
- ♦ A fugitive is positively identified at the time of arrest, preventing the person from walking away from the booking station, and thus necessitating continuing fugitive investigation.
- ♦ Most serious crimes are committed by a small percentage of the population. Removal of those individuals from the street is the most effective means available to reduce serious crime. Revitalization of the Identification Division will substantially enhance the ability to incarcerate the criminal that society most wants off the streets.

The Senate, in its action on the fiscal year 1992 appropriation for the Federal Bureau of Investigation (FBI), included \$12.5 million for 487 positions for the reduction of fingerprint and disposition backlogs and the automation of 8.8 million manual criminal history records. The FBI, in December 1993, converted approximately 60,509 manual criminal history records to an automated format at the West Virginia satellite facilities in Clarksburg. This brings the total number of conversions to 674,080 since the operation began on July 18, 1991. As of December 30, 1993, the remaining number of records to be converted is 7,874,086. At this rate it would take approximately 28 years to convert the remaining 7,874,086 manual criminal history records to an automated format. What steps are being taken to alleviate this critical situation?

ANSWER: In the original plans, 214 of the 487 positions were planned to support the conversion of 8.8 million manual criminal history records to an automated format, while the remaining positions (273) were to be directed toward the current work (fingerprint card and disposition) backlogs.

Due to personnel compensation shortfalls experienced as a result of the current state of economy and the unanticipated drastic reduction in the attrition rate, as well as legislation requiring the FBI to absorb additional funds, the FBI has been able to hire only 280 of the 487 positions appropriated during the 1992 budget process.

The original plan was to hire employees to perform the conversion effort in West Virginia and then, as current work functions were identified for relocation, the remaining positions would be filled to assist with the fingerprint card and disposition functions. It is imperative that a fingerprint card backlog be virtually nonexistent for an effective transition to the new system. Due to the FBI's inability to continue the hiring effort in West Virginia, and to continue to provide an acceptable level of services to the users, the Criminal Justice Information Services (CJIS) Division realigned the available resources to areas that would reduce the then-existing fingerprint card backlog of over 950,000 (February 1992). This realignment of resources affected the availability of personnel to support the conversion effort. However, by October 1993, the fingerprint card backlog was reduced to 160,000 and the average response time for a fingerprint card was reduced to approximately 10 days, from the approximate 31 day average response time in February 1992. Currently, 155 employees are assigned to the conversion effort.

Recognizing that the effort to convert approximately 8.8 million manual criminal history records to an automated format was a huge undertaking and would require significant personnel resources, the CJIS Division has made every effort to identify streamlining methods that would expedite the process. Since these records are of individuals born between 1929 and 1955, some of the files are inactive. Therefore, the CJIS Division determined that, to obtain maximum benefit from the limited resources available, the criteria for selecting a particular record to be converted could be directed to those that were activated by some type of inquiry, such as incoming fingerprint cards, correspondence or an inquiry through the Interstate Identification Index (III). By using this selection criteria, the manual records are actually converted to an automated format during the processing procedures of the inquiry that activated the manual file, thus allowing an automated response to the inquiry that originally hit against the manual record. By automating all active records, repeat offenders would be identified through our automated files and reduce the overall manual inquiries. In addition, the employees currently assigned to the conversion project are not only working toward completion of the conversion effort, but are also assisting in maintaining the current workload.

Additionally, this would ensure that all repeat offenders, currently maintained in the 8.8 million manual files, are automated and available through an III inquiry. All manual criminal history records activated since 1992 would be automated and available to support the Brady Act's National

Instant Check System, which is mandated to be developed and implemented within five years of enactment. This would also help the effort to identify individuals applying to purchase firearms. Although no specific completion date is known, the FBI is progressing as quickly as possible to automate the remaining manual criminal history records.

QUESTION: Attorney General Reno, I proposed an amendment which was later adopted in Conference on the Emergency Supplemental Appropriation and Rescission bill which provides, "For an additional amount for 'Salaries and Expenses' to defray expenses for the automation of fingerprint identification services and related costs, \$20,000,000, to remain available until expended; provided that these funds shall be available to the Federal Bureau of Investigation to hire 500 employees to carry out the automation of fingerprint services without regard to any employment ceilings imposed by the President or by law". It is my hope and expectation that the FBI will now proceed to embark upon an accelerated hiring program in order to assure that these 500 employees are hired as quickly as possible. Many of the potential hires have already been recruited and are awaiting the finalization of the necessary personnel actions. What steps are being taken by the FBI to accelerate the hiring of these 500 employees? Please give a date that you expect that these 500 employees to be on board at the FBI Fingerprint Identification Division. Please provide for the record a month-by-month hiring schedule with significant milestone events related to recruitment and hiring associated with the revitalization effort. May I have your assurances that every effort will be made to accelerate the hiring of these personnel as quickly as possible?

ANSWER: Current resources will permit the FBI to process and hire between 35 to 50 general support employees each month. There is a large pool of approximately 4,000 general support applicants who are in various stages of processing and who have indicated an interest in working for the FBI in West Virginia. On March 28, 1994, 33 new general support employees reported for duty in West Virginia as part of the 500 new positions provided in the supplemental appropriations act.

Of the 500 positions, 400 will be hired into general support term positions. The term will not exceed three years and as current employees at FBI Headquarters who choose not to relocate leave the FBI, the term employees will be converted to permanent positions. One hundred of the 500 positions will be for permanent specialty hires such as computer specialists, engineers, and technicians.

If hiring projections of 35 to 50 general support per month hold true, it can be anticipated that 400 general support applicants will be hired into term positions in West Virginia no later than February 1995. The 100 specialty hires will require more time to hire because of the work involved in recruiting and identifying individuals with

specific expertise and also because of the longer length of time required to conduct a background investigation. Projections are that by the end of calendar year 1995, the 100 specialty positions could be filled.

The following provides a projected month-by-month hiring schedule:

Proposed Schedule of FBI West Virginia Hiring 500 Positions

	Approximate Number General Support New Hires Projected	Approximate Number Specialty Support New Hires Projected
March 1994	33	...
April 1994	37	...
May 1994	35	...
June 1994	35	...
July 1994	35	...
August 1994	35	...
September 1994	35	...
October 1994	35	...
November 1994	35	...
December 1994	35	...
January 1995	35	10
February 1995	15	10
March 1995	...	10
April 1995	...	10
May 1995	...	10
June 1995	...	10
July 1995	...	10
August 1995	...	8
September 1995	...	6
October 1995	...	6
November 1995	...	5
December 1995	...	5
Total	400	100

The actual number of applicants hired each month may vary, but the FBI is working toward the goal of having 400 general support employees hired in West Virginia by February 1995, and 100 specialty employees by December 1995.

The FBI must hire new employees in West Virginia to offset those employees who have decided against relocating from FBI Headquarters. It is critical that these new employees be hired, trained, and fully productive as soon as possible. Every effort and resource are being placed into accelerating the hiring of those 500 individuals.

The new facility is scheduled for occupancy in June 1995. At that time we will begin to move functions requiring specialized skills to West Virginia. Therefore, there will be a need to hire new employees possessing specialized skills in sufficient time to train and coordinate them to the new work environment.

**QUESTION:** Attorney General Reno, what plans do you have for seeking authority and funding for early retirement and voluntary cash separation incentives for the FBI employees that do not wish to relocate to the FBI's Fingerprint Identification Division in Clarksburg, West Virginia? I am told that such a buy out provision would cost about \$10,000, which is much less expensive than the average of \$50,000 lost to transfer a FBI employee from Washington to Clarksburg? What more can be done?

**ANSWER:** The actual cost to transfer an employee to West Virginia varies, depending primarily on the property an individual owns and whether they rent or purchase a new residence. Based upon actual expenditures claimed by employees who have already relocated, the average cost to transfer an employee to West Virginia is currently \$28,000.

The Department has sent to the Office of Management and Budget for consideration, a legislative proposal that would offer separation incentive payment of between \$10,000 and \$25,000 to Criminal Justice Information Services (CJIS) Division employees who elect not to relocate their jobs to West Virginia. The legislative proposal would also allow appointment in the competitive service those CJIS Division employees, who, like other FBI employees, are in the excepted service, and are unwilling to relocate to West Virginia. Another proposal under consideration would allow the FBI to offer relocation bonuses to CJIS employees who are undecided about relocating to West Virginia.

It is projected that the average cost for each voluntary separation incentive would actually be \$17,000, based on the average salary of approximately 1,600 employees who responded "no" or "leaning to no" to the survey of employees conducted in October 1993, to identify employees desiring to relocate. Additionally, when comparing the cost of transferring an employee with the cost of a voluntary separation, the recruiting, hiring, and training costs incurred to replace that individual should also be considered. These costs have the potential to be as high as \$19,000 depending upon the specialty of a position. For example, a 12-week course to train an employee for the fingerprint examiner position is approximately \$12,000. This would result in an overall replacement cost of \$36,000 (\$17,000 average buy out plus \$19,000 for recruitment, hiring, and training) for key positions. Not included in these costs are the loss of productivity that would be sustained as a result of the training curve.

The Department of Justice and the FBI, in particular, are committed to providing quality service to the criminal justice community. The development of the Integrated Automated Fingerprint Identification System will provide the tools for the FBI to meet the demands upon the fingerprint identification services for the law enforcement community into the 21st century. However, a successful transition to the newly developed system requires a highly skilled work force. Considering these factors, I believe that it is in

the best interest of the Department, the FBI, and the criminal justice community overall to encourage the employees of the CJIS Division to relocate to West Virginia.

**QUESTION:** Please provide for the record an update on the status of the Identification Division Relocation/Revitalization project, including significant milestone events leading to its completion. Your response should include, but not be limited to, anticipated dates for the contract awards, construction completion, possible dedication, and occupancy. I would be appreciative if you could keep me updated on a continuing basis on this project. May I have your assurance that you are committed, as I am, to bringing this vitally important law enforcement initiative to a successful completion?

**ANSWER:** I am committed to bringing this vitally important law enforcement initiative to a successful completion. The FBI is currently providing monthly status reports to your office concerning the Revitalization and Relocation Project. We will continue to keep you and your staff updated regarding the progress of the revitalization/relocation efforts through these monthly status reports.

The following provides a status regarding the Integrated Automated Fingerprint Identification System (IAFIS) effort and construction in West Virginia:

#### IAFIS Status

The IAFIS project is the development and implementation of the most technologically advanced, large-scale criminal justice information services system. This is a system that is based on image capture, storage and retrieval. The key concept is the electronic submission of fingerprint images, rapid search, identification, and response while an offender is still in custody. The IAFIS is to be fully operational in the first quarter of calendar year 1998. The following provides a status of the major IAFIS acquisitions:

♦ **Automated Fingerprint Identification System (AFIS)** - AFIS provides automated fingerprint comparisons and identifies candidates for human use in the identification of criminals. The AFIS Request for Proposal (RFP) was released in July 1993. This marks the beginning of the bidders' open competition in which they will develop and present their conceptual designs and engineering approaches. Multiple contracts will be awarded in May 1994 to demonstrate critical AFIS features and provide simulation modeling that predicts full-scale operational capabilities. A single contractor will be selected in October 1995. Initial operating capability of the AFIS will be achieved in the first quarter of calendar year 1998.

♦ **Identification Tasking and Networking (ITN)** - ITN is the segment that supports the submission of electronic fingerprint images or mailed fingerprint cards for identification purposes. It also provides the working environment for our

fingerprint examiners. The ITN RFP was released in April 1993, and the contract was awarded in April 1994. Initial operating capability of the ITN will be achieved 34 months after the contract award.

♦ **Interstate Identification Index (III)** - III is the national system for the exchange of criminal history records and will support the implementation of the National Fingerprint File. The III RFP was released in September 1993 and the contract is anticipated to be awarded in August 1994. Initial operating capability of the III will be achieved 29 months after the contract award.

♦ **Fingerprint Image Conversion Operation (FICO)** - This project represents the conversion of approximately 32 million cards to electronic images for AFIS and ITN use. The FICO RFP was released in December 1993, and the contract is planned to be awarded in August 1994. The conversion operation is to commence in January 1995, with all of the digital images available in October 1996.

♦ **IAFIS Support Contracts** - The FBI has established agreements with the General Services Administration and other consulting organizations to provide acquisition, programmatic, auditing and engineering support services. In addition, during 1993, the FBI released RFPs for the systems integration and the Independent, Verification, Validation and Testing (IVV&T) contracts. The systems integration contract was awarded in February 1994, and the IVV&T contract is awaiting official approval by the Small Business Administration.

#### Construction Status

In January 1991, the FBI purchased 986 acres of land in Clarksburg, West Virginia, at a cost of \$3.5 million on which to construct a new state-of-the-art facility to house the FBI's Criminal Justice Information Services Division. Construction of the new facility has been divided into five bid packages/contracts. Overall, the construction project is approximately 50 percent complete and on schedule for completion in May 1995. The following provides a status regarding each of the five bid packages:

♦ **Bid Package 1** - The contract for Bid Package 1, the site preparation activities, has been completed. Those activities included the installation of roads and site utility lines (water, sewer and electric).

♦ **Bid Package 2** - The contract for Bid Package 2, the construction of the foundations and structural steel of the Main Building and Computer Center, has been completed.

♦ **Bid Package 3** - The contract for Bid Package 3, the construction of the Service Center, has been completed. The Service Center will house the shipping and receiving functions and the facilities management staff for the new facility.

♦ **Bid Package 4** - The contract for Bid Package 4, the completion of the Main Building and computer Center and the construction of the Central Utilities Plant, was awarded in June 1992 and is on schedule for completion in May 1995.

♦ **Bid Package 5** - The contract for Bid Package 5, the construction of the Child Development Center, was sent out for bids in March 1994. The contract is to be awarded in May 1994, with completion scheduled for March 1995.

**QUESTION:** Attorney General Reno, the fiscal year 1992 Commerce, Justice, State Appropriations Act included \$1.5 million for the establishment of a program office outside of the Identification Division for the revitalization of the Division. What is its status and structure of this program office?

**ANSWER:** In 1992, the FBI received 10 support positions, 10 workyears, and \$1.5 million to create a program office for the revitalization of the Identification Division. To satisfy the congressional mandate to create this program office to oversee the development of the Integrated Automated Fingerprint Identification System (IAFIS), the FBI established the Criminal Justice Information Services (CJIS) Division.

This CJIS Division was created to provide the FBI with the management structure needed to support the identification and information services provided to the law enforcement and criminal justice community. Key CJIS Division management personnel have been selected to oversee the development of the IAFIS project to provide independent oversight to the IAFIS.

**QUESTION:** Attorney General Reno, is the Department of Justice moving forward on the FBI's recommendation to relocate the National Crime Information Center (NCIC) and the Uniform Crime Reporting (UCR) functions of the newly created Criminal Justice Information Services (CJIS) Division from FBI Headquarters to Clarksburg? This final action to relocate these components to West Virginia was held in abeyance pending review by the newly-appointed FBI Director. I am told that the new Director reviewed the matter and supports the relocation because of the economics that would accrue due to the improved planning, direction, cohesiveness, decision-making, lower overhead and increased opportunities for employee cross-training. Has the Department of Justice submitted the approval of this relocation to the Office of Management and Budget with a request for transmittal to Congress?

**ANSWER:** Yes, on May 3, 1994, the Department submitted a formal notification of this relocation to the Office of Management and Budget (OMB) for review. On May 17, 1994, OMB approved this relocation. Congressional notification is expected shortly.

**QUESTION:** Attorney General Reno, will the Criminal Justice Information Services (CJIS) Division have enough contracting personnel to fulfill CJIS transition plans, designed to meet development and production schedules for CJIS implementation of automated data processing equipment contract awards and contract modifications? Please provide for the record the current staffing levels assigned to the revitalization project. Along with this, please provide a detailed plan on how the FBI plans to accomplish this staffing.

**ANSWER:** I believe that the FBI has sufficient contracting staff to meet the CJIS revitalization plans. The FBI maintains a centralized contract office under the Finance Division that supports all FBI acquisitions and procurement actions. The Finance Division has 24 contracting offices assigned to this centralized staff. Of this number, 12 are supporting the CJIS revitalization effort - 4 on an exclusive basis, 6 over 50 percent of their time, and 2 over 25 percent. This staff is further augmented by 9 FBI procurement specialists who spend a portion of their time also supporting the revitalization effort by implementing numerous interagency agreements, as well as conducting GSA schedule buys and undertaking a myriad of procurement using small purchase procedures.

The FBI is also in the process of hiring 5 more contract specialists who will be on board prior to the implementation of the planned IAFIS acquisitions. All of these resources consist of experienced contracting personnel and provide complete coverage for all the present and future contract actions. Back-up personnel have also been trained to ensure no degradation of service to this effort because of any unforeseen circumstances affecting the current contract specialist.

In addition, the FBI has established interagency agreements with the General Services Administration (GSA), Federal Computer Acquisition Center and Federal Systems Integration Management Center. These organizations are providing acquisition-related services in support of the IAFIS effort.

**QUESTION:** Attorney General Reno, I am told that the new CJIS facility being constructed at Clarksburg is on time and under budget. How would you characterize the automation project, including the development of the prototype?

**ANSWER:** The Integrated Automated Fingerprint Information System (IAFIS) segment contract award milestones have experienced slips due primarily to more bidders responding to the Request for Proposals released for each segment of the IAFIS project than had been anticipated. This, in turn, resulted in more questions being asked concerning the development of each segment of the IAFIS project than was originally anticipated.

The IAFIS segment initial operating capability (IOC) dates are each a certain number of months after the contract is awarded. As a result, the IOC dates have been revised based

upon the new projected contract award dates. The IAFIS project, including the Interstate Identification Index, the Identification Tasking and Networking, and the Automated Fingerprint Identification System, is to be fully operational in the first quarter of calendar year 1998. The FBI has completed the development of the Identification Tasking and Networking prototype.

Status of Beckley Prison Facility

QUESTION: I am told that the construction of the new Federal prison at Beckley, West Virginia, is progressing well. Do you foresee any problems with this project, including the ability of the Bureau of Prisons to staff the facility when it is completed in the spring of 1995. What levels of staffing are contemplated at the Beckley facility in fiscal year 1995?

ANSWER: The construction of the new Federal prison at Beckley, West Virginia is progressing well and is scheduled for completion in the spring of 1995. The Bureau of Prisons foresees no construction or staffing problems at the facility. The President's 1995 request identifies a staffing level of 491 positions for Beckley.

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QUESTIONS SUBMITTED BY SENATOR J. ROBERT KERREY

Edward Byrne Program

QUESTION: The President's budget recommends termination of the Edward Byrne formula grant and expansion of the Byrne discretionary grant. I am very concerned about the effect of such a change on the State of Nebraska.

The grant requires the State to develop a statewide criminal justice plan. This has been very useful for Nebraska in identifying problems, needs, and establishing funding priorities. Federal funds administered through a formula grant, like Byrne, ensure that States like Nebraska receive a fair share of available funds and allow States flexibility to address their specific needs. If these monies are distributed through discretionary programs, the chance of communities such as Lexington, Kearney, Norfolk, and Scottsbluff receiving badly needed funds will be remote.

This grant has been so successful that State and local jurisdictions have contributed significant resources, such as existing manpower, equipment, and training, beyond the required 25 percent cash match because they recognize the importance of the projects in addressing drug and violent crime problems.

Programs funded with the Byrne dollars include the Drug Abuse Resistance Education Program (DARE); youth drug assessment, education, pre-treatment, and referral; early treatment intervention of adult drug offenders; a program to detect and apprehend mid and upper level drug dealers; the

Attorney General's Drug Prosecution Unit; specialized training for law enforcement officers; a study of Nebraska's indigent defense system; probation's multicultural officer program; and the State and local multijurisdictional task forces. In addition, Nebraska, over the last two years, has been focusing efforts to counter youth violence. Awards made possible through the Byrne formula grant were awarded to four communities for programs specifically designed to address youth and violence. Scotts Bluff County received funds to establish a "reporting center" for non-violent juvenile offenders; the City of Blair received funds for a school liaison officer program; the City of Omaha received funds for a program to recruit law enforcement officers as big brothers and big sisters for youth identified as "high risk"; and the City of Lincoln received funds for a program that identifies "at risk" youth to participate in structured sessions facilitated by inmates.

If the Byrne formula grant funds are terminated, these programs will either be significantly reduced or terminated because current State and local budgets are not and have not been sufficient to sustain them.

What is the rationale behind elimination of this formula grant? What assurances can you give that communities in smaller States, like Nebraska, will be given their fair share of Federal assistance for crime prevention activities?

ANSWER: As a result of the many concerns expressed about the loss of funding for multijurisdictional task forces, the Administration has reassessed its previous position on elimination of the Byrne formula grant program. The President's budget request will be amended to include \$125 million for Byrne formula grants, in order to provide continued funding for the task force activity at approximately the 1993 level of support. States will also have the flexibility to spend the restored funding on any of the other 21 purpose areas.

The Department's 1995 \$2.4 billion budget request for the Crime Control Fund includes \$2.1 billion for State and local assistance, which combined with the request for Juvenile Justice, the Edward Byrne program, and the Asset Forfeiture Fund represents an overall 325 percent increase for State and local criminal justice assistance. The Department is requesting funding for an array of new initiatives such as \$1.72 billion for the proposed community policing program, \$100 million for criminal records upgrading, \$300 million for a new border security and illegal immigration initiative, and \$303 million for innovations such as drug courts, drug treatment and boot camps. Although the distribution of these resources by State will depend largely on the passage of the Crime Bill and the individual needs of localities, it is expected that the States' share of the new funding will significantly exceed what is now provided. For example, under the Cops on the Beat Program, both the House and Senate versions of the Crime Bill provide for a minimum fund allocation to each State. The Senate bill calls for a

minimum allocation of 0.6 percent of the appropriated amount, while the House bill stipulates a minimum of 0.25 percent of the amount available.

**QUESTION:** Nebraska has funded multijurisdictional task forces which cover 80 of the 93 counties across the State. Of the nine task forces, seven are funded through the Edward Byrne formula grant. Previously, it was not uncommon to have law enforcement agencies within the same county not speaking to each other. The Edward Byrne formula grant enhanced the coordination and cooperation among law enforcement agencies. Due to the development of task forces, coordination of investigations, cooperation and the sharing of intelligence information has been outstanding both at the regional level as well as statewide. A significant number of cases have led to other States thus enhancing cooperative efforts between States. In 1992, there were 4,633 arrests for drug offenses and 941 convictions for drug offenses. Can Nebraska be assured of support from the Department of Justice to keep these task forces in operation?

**ANSWER:** The Department is aware of the adverse consequences that may occur as a result of the abrupt termination of funding for the Byrne formula grant program. Therefore, the Administration has reassessed its previous position on elimination of the Byrne formula grant program. The President's budget request will be amended to include \$125 million for Byrne formula grants, in order to provide continued funding for the task force activity at approximately the 1993 level of support. States will also have the flexibility to spend the restored funding on any of the other 21 purpose areas.

#### Interdepartmental Violence Initiative

**QUESTION:** The State of Nebraska is one of four areas currently participating in the Interdepartmental Violence Initiative run by the Department of Justice. Development of a comprehensive strategy to reduce crime and violence at the local level, which is one of the goals of this project, is often hampered by a lack of coordination at the Federal level. What plans are in place to train Federal agency employees so that they understand not only those grants and programs available through their agency but also related grants and programs available through other agencies? Do you foresee efforts to consolidate related grants and programs within one agency in an effort to improve organization to achieve a more effective continuum of support for youth?

**ANSWER:** Project PACT (Pulling America's Communities Together) is a demonstration element of the Interdepartmental Violence Initiative. To date, this demonstration has been staffed by only Department of Justice employees, all from the various components of the Office of Justice Programs. A formal training program is underway to cross-train those employees concerning all of the ongoing programs of the Department of Justice. We have begun exploratory

discussion of interagency cross-training with other Departments (Education, Housing and Urban Development, Health and Human Services, and Labor) but have not reached any formal agreements with other agencies on how this will be undertaken.

At present we have not explored consolidated grants as an option under Project PACT. It is possible that such an arrangement will be desirable in the future but at this stage of the development of individual anti-violence strategies we believe it is premature to discuss funding arrangements. Once the jurisdictions have settled on an anti-violence strategy appropriate to their jurisdictions, we will actively explore all possible funding mechanisms, including joint funding.

#### Coordination of Interdiction and Surveillance Efforts

**QUESTION:** A continuing problem contributing to the increase in drugs in Nebraska is the drug trafficking network that passes through the State along Interstate 80. The State Patrol set a drug enforcement record last year by seizing \$28.8 million in narcotics and \$1.2 million in cash and making 1,027 related arrests. Interstate 80 remains a route of choice not only because the rural nature of the State gives drug traffickers the perception they will not be detected, but also because the surrounding States do not have aggressive interdiction programs. How can the Drug Enforcement Administration (DEA) help coordinate interdiction and surveillance efforts between States?

**ANSWER:** DEA operates a cooperative interdiction program involving numerous State police or highway patrol organizations. Operation Pipeline was initiated as a way to incorporate uniformed highway patrol officers into DEA's domestic interdiction efforts via the identification and arrest of large-scale drug traffickers who use interstate highways to transport drugs across the country.

Using experienced patrol officers as instructors, DEA trained 7,332 officers in 1993 in the detection and apprehension of drug suspects. Once the drugs are discovered by a State trooper and turned over to DEA, DEA executes a "controlled delivery"---wherein the drugs are delivered to the intended customer in order to arrest both courier and recipient. Often, the customer is in a different State and coordination is required between the State police organizations. In addition, all of the information from these highway interdictions and controlled deliveries is entered into the drug intelligence database at the El Paso Intelligence Center (EPIC). Police officers across the country have access to this information which aids in the coordination of drug investigations across State lines.

Nebraska has only recently become an active participant in drug interdiction as a result of Operation Pipeline training. Since Nebraska's participation, Interstate 80 has been identified as one of the most active drug trafficking routes

between the source of drugs in California and the consumers in New York. Nebraska's neighboring States of Colorado, Iowa, and Missouri also have fully operational interdiction programs -- including interdiction training through Operation Pipeline.

#### Domestic Violence

**QUESTION:** Nebraska recently lost two rural law enforcement officers who were shot and killed after responding to domestic violence calls in separate incidents. It is clear that domestic violence has as much of an effect on law enforcement as it does on social and youth service systems. Do you see a role for the Federal Government to play in helping States boost collaboration between social services, health, and law enforcement in addressing domestic violence?

**ANSWER:** Yes. The crime bills that have been passed by the Houses of Congress contemplate substantial increases in Federal support for State and local efforts against domestic violence, through new funding programs and increased authorizations for existing programs, which will be administered by the Department of Justice and the Department of Health and Human Services. Some of the programs expressly provide for integrated approaches involving coordinated efforts of law enforcement and social services agencies. In general, I would expect to promote such integrated approaches in the administration of the programs for which I will be responsible, and to work closely with the Department of Health and Human Services to ensure coordination with related areas of social services and health funding.

#### Police Hiring Supplement

**QUESTION:** Grant awards made during the first and second funding rounds for the Police Hiring Supplement Program suggest that smaller communities and States have difficulty obtaining these grants. How are applications from smaller States analyzed under this grant? How many rural communities and States received funding under this program during the first and second funding rounds? Please identify the communities and their population for the record.

**ANSWER:** The Police Hiring Supplement, signed into law by President Clinton on July 2, 1993, is a \$150 million competitive grant program in which local law enforcement agencies nationwide can apply for funds to hire police officers and implement community policing. The program is designed to benefit large and small departments. Fifty percent of the program's total funds (\$75 million) will be awarded to law enforcement agencies serving populations of 150,000 or more. The remaining \$75 million will go to smaller jurisdictions of less than 150,000 population.

Each application is carefully reviewed and scored by career criminal justice professionals in the Office of Justice Programs using a standard and fair process. Reviewers score

each application according to the following Selection Criteria:

- **Public Safety Need (40%).** Applicants must demonstrate a clear need for additional sworn law enforcement officers based on public safety and/or economic factors. Important factors include: the crime index, unemployment, ratio of officers to residents, and significant trends or events affecting public safety or the local economy.
- **Community Policing Strategy (30%).** Applicants must specify how they will address their crime and related problems through community policing.
- **Implementation Plan (10%).** Applicants must specify how program funds will be used to deploy additional sworn police for community policing activities.
- **Continuation and Retention Plan (10%).** Applicants must describe how they intend to continue the project and retain the additional officers after the grant concludes.
- **Additional Resource Commitments (10%).** Applicants must describe non-program resources that will be provided from other organizations in support of the project.

The Department of Justice will also consider geographic or other factors to ensure an equitable distribution of grants.

The Department received 1,088 applications in the first round, which ended in mid-October, an additional 534 applications in round two, which ended November 1, and over 1,100 applications by December 1, the final deadline, for a total of more than 2,700 applications. Applications were received from every State, and several territories.

To date, 250 jurisdictions, located in 50 States, have been awarded \$149,930,333 of Police Hiring Supplement funds, which will result in the addition of 2,023 new police officers on America's streets. These jurisdictions include 233 police departments, 13 sheriffs' departments, two Indian tribes, one transit authority, and one consortium of law enforcement agencies. Forty-five awards were made to jurisdictions with populations of 150,000 or above. These awards include two \$4 million grants to the Cities of Chicago and Los Angeles, a \$3 million grant to the City of San Antonio, and awards ranging from \$1 million to \$2.1 million to 37 cities, four counties, one State and one transit authority. Two hundred and five awards were made to jurisdictions with populations of less than 150,000. These included 22 grants to jurisdictions with populations of 100,000 to 150,000; 48 to jurisdictions of 50,000 to 99,999; 45 to jurisdictions between 25,000 and 49,999; and 90 to jurisdictions of under 25,000.

A listing titled Police Hiring Supplement Program Rounds One, Two, and Three Awards is provided, which lists all awards made to date and the grantee jurisdiction's population.

**POLICE HIRING SUPPLEMENT PROGRAM  
ROUNDS ONE, TWO, AND THREE AWARDS**

STATE	AWARD RECIPIENT	ROUND	FEDERAL AMOUNT AWARDED	OFFICERS FUNDED	POPULATION
AL	BIRMINGHAM POLICE	3	\$1,839,773	14	265,968
AL	DOUBLE SPRINGS POLICE	3	\$51,491	1	1,138
AL	FORT DEPOSIT POLICE	1	\$53,316	1	1,240
AL	GADSDEN POLICE	3	\$675,000	9	42,523
AL	HAYNEVILLE POLICE	2	\$36,941	1	1,030
AL	PHIL CAMPBELL POLICE	1	\$102,590	2	2,241
AK	HOMER POLICE	3	\$153,094	2	3,660
AK	JUNEAU POLICE	3	\$570,573	6	26,751
AZ	PHOENIX POLICE	3	\$2,100,000	28	1,028,412
AZ	SOUTH TUCSON DEPT. OF PUBLIC SAFETY	3	\$265,794	3	5,452
AZ	TEMPE POLICE	1	\$525,000	7	141,993
AR	PINE BLUFF POLICE	2	\$472,875	8	57,140
AR	NORTH LITTLE ROCK POLICE	3	\$375,000	5	61,829
CA	BERKELEY POLICE	3	\$501,748	5	102,724
CA	BUTTE CO. SHERIFF	3	\$375,000	5	105,800
CA	EAST PALO ALTO POLICE	1	\$898,233	7	23,451
CA	EUREKA POLICE	3	\$308,390	4	27,025
CA	FILLMORE POLICE	1	\$329,867	3	12,800
CA	FONTANA POLICE	1	\$497,346	5	100,600
CA	FORT BRAGG POLICE	1	\$75,000	1	6,233
CA	GARDEN GROVE POLICE	1	\$593,533	6	143,050
CA	HAWTHORNE POLICE	3	\$532,980	6	73,897
CA	INGLEWOOD POLICE	1	\$1,000,000	9	109,602
CA	LOS ANGELES POLICE	1	\$4,000,000	54	3,607,688
CA	LA COUNTY METRO TRANSIT AUTHORITY	3	\$1,105,503	12	9,000,000
CA	LOS BANOS POLICE	3	\$97,071	1	14,291
CA	MADERA POLICE	1	\$225,000	3	33,027
CA	MANTECA POLICE	1	\$225,000	3	40,004
CA	MERCED POLICE	2	\$461,763	6	56,216
CA	MORENO VALLEY	1	\$375,000	5	133,706
CA	OAKLAND POLICE	3	\$1,687,684	16	373,242
CA	REDDING POLICE	1	\$472,315	5	75,000
CA	RICHMOND POLICE	3	\$944,883	9	87,425
CA	SACRAMENTO CO. SHERIFF	1	\$1,929,853	20	667,808
CA	SAN BERNARDINO POLICE	2	\$1,439,195	17	164,164
CA	SAN JUAN BAUTISTA	2	\$75,000	1	1,650
CA	SANTA CRUZ POLICE	1	\$150,000	2	51,458
CA	SHAFTER POLICE	2	\$75,000	1	10,133

STATE	AWARD RECIPIENT	ROUND	FEDERAL AMOUNT AWARDED	OFFICERS FUNDED	POPULATION
CA	SHASTA CO. SHERIFF	3	\$300,000	4	72,275
CA	SOUTH GATE POLICE	3	\$199,030	2	86,284
CA	STOCKTON POLICE	3	\$1,377,264	17	226,300
CA	VICTORVILLE POLICE	3	\$304,493	3	53,664
CA	VISALIA POLICE	3	\$205,598	3	75,636
CA	WATSONVILLE POLICE	2	\$180,969	2	31,099
CO	AURORA POLICE	1	\$1,950,000	26	238,000
CT	HARTFORD POLICE	3	\$975,000	13	139,739
CT	MANCHESTER POLICE	1	\$283,930	3	51,618
CT	NEW HAVEN POLICE	3	\$981,488	10	130,474
DE	DELMAR POLICE	1	\$123,048	2	2,500
DE	NEW CASTLE CO. POLICE	1	\$1,745,484	24	338,817
FL	FLORIDA CITY POLICE	3	\$330,086	3	5,806
FL	FORT MEADE POLICE	3	\$69,261	1	4,976
FL	FORT MYERS POLICE	2	\$600,000	8	45,026
FL	FORT PIERCE POLICE	1	\$413,215	6	36,884
FL	GRETNA POLICE	1	\$179,213	3	1,981
FL	HOMESTEAD POLICE	1	\$492,128	4	26,866
FL	LAKE WORTH POLICE	3	\$225,000	3	28,564
FL	MANATEE CO. SHERIFF	3	\$600,000	8	147,905
FL	MIAMI POLICE	2	\$1,950,000	26	358,548
FL	MIAMI BEACH POLICE	3	\$525,000	7	92,639
FL	OPA-LOCKA POLICE	3	\$368,649	6	15,283
FL	ORLANDO POLICE	1	\$1,950,000	26	165,310
FL	PALATKA POLICE	1	\$315,494	5	10,201
FL	PORT SAINT LUCIE POLICE	1	\$525,000	7	65,772
FL	SOUTH BAY POLICE	1	\$130,293	2	3,558
FL	TALLAHASSEE POLICE	3	\$900,000	12	124,773
FL	TAMPA POLICE	3	\$2,000,000	30	282,848
FL	WINTER HAVEN POLICE	3	\$403,751	6	25,054
GA	ALBANY POLICE	1	\$729,783	12	78,122
GA	ATLANTA POLICE	3	\$1,500,000	20	394,017
GA	CORDELE POLICE	1	\$107,163	2	10,836
GA	GAINESVILLE POLICE	3	\$165,116	3	17,885
GA	THOMASVILLE POLICE	3	\$266,017	5	17,554
HI	HAWAII CO. POLICE	3	\$375,000	5	121,300
ID	CALDWELL POLICE	3	\$57,929	1	18,400
ID	SANDPOINT POLICE	3	\$131,316	2	5,203
ID	WILDER POLICE	3	\$60,577	1	1,232
IL	CAIRO POLICE	3	\$185,950	4	4,846
IL	CARBONDALE POLICE	1	\$150,000	2	27,033

STATE	AWARD RECIPIENT	ROUND	FEDERAL AMOUNT AWARDED	OFFICERS FUNDED	POPULATION
IL	CAROL STREAM POLICE	1	\$177,115	3	36,240
IL	CHICAGO POLICE	2	\$4,000,000	50	2,783,726
IL	COUNTRY CLUB HILLS POLICE	2	\$238,881	3	15,431
IL	EAST SAINT LOUIS POLICE	2	\$977,270	18	40,944
IL	ILLINOIS STATE POLICE	3	\$352,347	6	170,635
IL	KANKAKEE POLICE	3	\$300,000	4	27,575
IL	MOLINE POLICE	1	\$375,000	5	43,202
IL	SILVIS POLICE	3	\$225,000	3	6,926
IN	ANDERSON POLICE	1	\$150,000	2	59,459
IN	EAST CHICAGO POLICE	2	\$600,000	8	33,892
IN	GARY POLICE	2	\$749,982	10	116,647
IN	MARION POLICE	1	\$450,000	6	32,393
IN	SOUTH BEND POLICE	3	\$750,000	10	105,511
IA	SIoux CITY POLICE	3	\$750,000	10	80,505
IA	WATERLOO POLICE	1	\$975,000	13	66,467
KS	KANSAS CITY POLICE	3	\$750,000	10	149,800
KS	TOPEKA POLICE	3	\$675,000	9	119,883
KS	WICHITA POLICE, SEDGWICK CO. SHERIFF	3	\$1,028,372	15	404,600
KY	ASHLAND POLICE	3	\$202,887	3	23,622
KY	KNOTT CO. SHERIFF	3	\$197,114	3	17,906
KY	MOREHEAD POLICE	1	\$205,362	3	8,358
KY	PADUCAH POLICE	3	\$300,000	4	27,256
KY	SHELBYVILLE POLICE	3	\$156,999	3	6,438
LA	BALDWIN POLICE	1	\$42,561	1	2,379
LA	GRAMBLING POLICE	3	\$143,901	4	5,484
LA	NEW ORLEANS POLICE	3	\$1,266,374	23	496,938
LA	SHREVEPORT POLICE	3	\$1,084,766	18	198,525
ME	MAINE STATE POLICE	3	\$300,000	4	10,150
ME	PORTLAND POLICE	1	\$450,000	6	64,358
ME	WELLS POLICE	3	\$150,000	2	7,778
MD	BALTIMORE POLICE	1	\$2,000,000	40	736,014
MD	OCEAN CITY POLICE	3	\$139,691	2	5,146
MD	PRINCE GEORGE'S CO. POLICE	3	\$2,100,000	28	752,830
MD	SALISBURY POLICE	1	\$289,007	5	22,000
MA	FITCHBURG POLICE	2	\$525,000	7	41,194
MA	LAWRENCE POLICE	3	\$750,000	10	70,207
MA	LOWELL POLICE	1	\$900,000	12	103,439
MA	NEW BEDFORD POLICE	3	\$450,000	6	99,767
MA	SANDWICH POLICE	1	\$375,000	5	16,947
MA	SPRINGFIELD POLICE	3	\$1,200,000	16	156,983
MA	WOBURN POLICE	2	\$395,331	5	35,943
MI	BENTON HARBOR POLICE	1	\$600,000	8	12,818

STATE	AWARD RECIPIENT	ROUND	FEDERAL AMOUNT AWARDED	OFFICERS FUNDED	POPULATION
MI	DETROIT POLICE	3	\$1,500,000	20	1,827,974
MI	ESCANABA PUBLIC SAFETY DEPARTMENT	3	\$75,000	1	13,659
MI	FLINT POLICE	2	\$1,000,000	14	140,761
MI	HIGHLAND PARK	1	\$663,572	6	21,121
MI	KALKASKA CO. SHERIFF	3	\$150,000	2	13,497
MI	MISSAUKEE CO. SHERIFF	3	\$216,889	3	12,147
MI	SAGINAW POLICE	1	\$975,000	13	69,512
MN	COLUMBIA HEIGHTS POLICE	3	\$135,623	2	19,659
MN	MINNEAPOLIS POLICE	3	\$750,000	10	368,383
MN	MOORHEAD POLICE	3	\$361,567	6	33,069
MN	SAINT PAUL POLICE	3	\$750,000	10	272,235
MS	CHOCTAW INDIANS, DEPT. OF LAW ENFORCEMENT	1	\$590,260	6	3,935
MS	TOWN OF DUNCAN	3	\$21,127	1	416
MS	GREENVILLE POLICE	3	\$205,337	5	46,000
MS	HATTIESBURG POLICE	1	\$496,167	10	45,301
MO	COLE CO. SHERIFF	3	\$291,345	4	63,579
MO	KANSAS CITY POLICE	3	\$1,950,000	26	435,141
MO	SAINT LOUIS POLICE	2	\$1,725,000	23	396,685
MT	BILLINGS POLICE	1	\$438,922	6	81,151
NE	LINCOLN POLICE	3	\$1,066,590	15	191,900
NV	CARSON CITY SHERIFF	3	\$375,000	5	40,443
NH	DOVER POLICE	3	\$75,000	1	25,042
NH	RAYMOND POLICE	3	\$138,142	2	8,713
NJ	BAYONNE POLICE	2	\$450,000	6	61,444
NJ	CAMDEN POLICE	3	\$450,000	6	87,492
NJ	EAST ORANGE POLICE	3	\$525,000	7	73,552
NJ	IRVINGTON POLICE	3	\$385,366	5	61,018
NJ	JERSEY CITY POLICE	3	\$1,350,000	18	228,537
NJ	MILLVILLE POLICE	1	\$225,000	3	25,992
NJ	NEWARK POLICE	1	\$1,000,000	24	275,221
NJ	NEW BRUNSWICK POLICE	1	\$633,856	8	41,711
NJ	SALEM POLICE	3	\$150,000	2	6,883
NJ	TRENTON POLICE	3	\$450,000	6	88,675
NJ	WEST NEW YORK POLICE	2	\$525,000	7	38,125
NM	GALLUP POLICE	2	\$131,922	2	19,154
NM	GRANTS POLICE	3	\$116,572	2	8,900
NM	LAS CRUCES POLICE	3	\$412,191	6	63,478
NY	ALBANY POLICE	2	\$999,509	14	101,082

STATE	AWARD RECIPIENT	ROUND	FEDERAL AMOUNT AWARDED	OFFICERS FUNDED	POPULATION
NY	BUFFALO POLICE	1	\$2,000,000	27	328,123
NY	GENEVA POLICE	3	\$225,000	3	14,143
NY	GREENE CO. SHERIFF	1	\$124,579	2	44,739
NY	HEMPSTEAD POLICE	3	\$450,000	6	49,453
NY	HUDSON POLICE	3	\$150,000	2	8,034
NY	MEDINA POLICE	2	\$149,268	2	6,686
NY	MOUNT VERNON DEPT. OF PUBLIC SAFETY	3	\$750,000	10	67,153
NY	POUGHKEEPSIE POLICE	3	\$300,000	4	28,844
NY	SCHENECTADY POLICE	1	\$975,000	13	65,566
NY	SPRING VALLEY POLICE	3	\$228,933	3	21,802
NC	CHARLOTTE-MECKLENBURG POLICE	1	\$1,799,478	27	485,171
NC	KINSTON POLICE	1	\$300,000	4	25,295
NC	LELAND POLICE	3	\$91,270	2	1,900
NC	LENOIR POLICE	1	\$180,505	3	15,502
NC	PITT CO. SHERIFF	3	\$341,141	5	110,374
NC	WADESBORO POLICE	3	\$142,434	2	3,862
NC	WASHINGTON POLICE	3	\$170,344	3	9,170
ND	MANDAN POLICE	3	\$115,239	2	15,177
OH	CLEVELAND POLICE	2	\$2,000,000	30	505,616
OH	DEFIANCE POLICE	3	\$150,000	2	16,768
OH	HAMILTON POLICE	3	\$225,000	3	61,368
OH	MANSFIELD POLICE	1	\$548,360	8	51,353
OH	NEWARK DEPT. PUBLIC SAFETY	1	\$300,000	4	44,389
OH	PORTSMOUTH POLICE	3	\$207,354	3	22,676
OH	TOLEDO POLICE	3	\$1,476,347	18	332,943
OH	XENIA POLICE	2	\$150,000	2	24,836
OH	YOUNGSTOWN POLICE	3	\$600,000	8	95,732
OK	NORMAN POLICE	2	\$600,000	8	80,071
OK	OKLAHOMA CITY POLICE	3	\$1,125,000	15	444,719
OR	ALBANY POLICE	1	\$300,000	4	34,125
OR	BENTON CO. SHERIFF	3	\$300,000	4	72,000
OR	CORVALLIS POLICE	1	\$300,000	4	45,470
OR	DOUGLAS CO. CONSORTIUM	1	\$375,000	5	97,200
OR	ROSEBURG POLICE	3	\$225,000	3	17,069
PA	CHAMBERSBURG POLICE	3	\$300,000	4	16,647
PA	CHESTER POLICE	3	\$675,000	9	41,856
PA	COATESVILLE POLICE	3	\$268,904	4	11,038
PA	JOHNSTOWN POLICE	3	\$319,396	3	28,134
PA	HARRISBURG POLICE	2	\$300,000	4	52,376
PA	LANCASTER POLICE	1	\$591,660	8	55,581
PA	POTTSTOWN POLICE	3	\$125,183	2	21,837

STATE	AWARD RECIPIENT	ROUND	FEDERAL AMOUNT AWARDED	OFFICERS FUNDED	POPULATION
PA	READING POLICE	2	\$750,000	10	78,380
PA	WILKINSBURG POLICE	3	\$375,000	5	21,080
RI	PROVIDENCE POLICE	3	\$1,213,156	14	160,728
SC	GEORGETOWN POLICE	3	\$203,965	3	9,517
SC	GREENVILLE POLICE	3	\$232,217	4	58,282
SC	LANCASTER POLICE	2	\$262,926	4	8,914
SC	NORTH CHARLESTON POLICE	3	\$899,816	10	70,218
SC	SUMMERVILLE POLICE	1	\$377,510	6	24,000
SC	WEST COLUMBIA POLICE	3	\$150,000	2	10,944
SD	RAPID CITY POLICE	3	\$592,967	8	54,523
TN	CLEVELAND POLICE	3	\$245,772	4	30,354
TN	DYERSBURG POLICE	3	\$213,516	3	18,455
TN	JACKSON POLICE	3	\$460,207	7	48,949
TN	MEMPHIS POLICE	3	\$1,500,000	20	610,337
TN	UNION CITY POLICE	1	\$110,445	2	10,513
TX	BEAUMONT POLICE	3	\$600,000	8	114,325
TX	DALLAS POLICE	3	\$2,100,000	28	1,006,877
TX	EDINBURG POLICE	3	\$292,500	6	28,885
TX	HOUSTON POLICE	3	\$2,100,000	28	1,635,827
TX	LANCASTER POLICE	1	\$300,000	4	24,000
TX	PORT ARTHUR POLICE	1	\$1,000,000	9	58,724
TX	SAN ANTONIO POLICE	1	\$3,000,000	40	935,933
TX	SAN BENITO POLICE	1	\$348,056	6	24,000
TX	WAXAHACHIE POLICE	1	\$212,497	3	18,189
UT	SALT LAKE CITY POLICE	3	\$1,050,000	14	159,936
UT	WEBER CO. SHERIFF, ROY CITY POLICE, WASHINGTON TERRACE POLICE	3	\$287,027	4	99,354
VT	RUTLAND POLICE	3	\$150,000	2	18,681
VT	WINOOSKI POLICE	3	\$67,643	1	6,868
VA	HAMPTON POLICE	2	\$1,000,000	20	135,793
VA	MARION POLICE	3	\$114,297	2	6,649
VA	NEWPORT NEWS POLICE	2	\$1,500,000	20	171,439
VA	PETERSBURG POLICE	3	\$366,447	5	38,386
VA	VIRGINIA BEACH POLICE	1	\$1,991,415	28	410,607
WA	BREWSTER POLICE	3	\$150,000	2	1,635
WA	KELSO POLICE	3	\$225,000	3	11,820
WA	NISQUALLY INDIAN TRIBE	3	\$222,088	3	2,498
WA	PALOUSE POLICE	1	\$57,061	1	915
WA	PASCO POLICE	3	\$300,000	4	20,337
WA	SEATTLE POLICE	2	\$1,452,390	20	516,260
WA	TOPPENISH POLICE	1	\$267,326	2	7,419

STATE	AWARD RECIPIENT	ROUND	FEDERAL AMOUNT AWARDED	OFFICERS FUNDED	POPULATION
WV	BECKLEY POLICE	3	\$168,087	3	18,296
WV	CHARLESTON POLICE	3	\$768,978	12	57,998
WV	MARTINSBURG POLICE	3	\$190,284	3	14,217
WI	BELOIT POLICE	1	\$450,000	6	35,573
WI	FOND DU LAC POLICE	3	\$139,791	2	37,755
WI	TOWN OF MADISON POLICE	3	\$150,000	2	6,544
WI	MILWAUKEE POLICE	3	\$975,000	13	628,088
WI	OSHKOSH POLICE	3	\$225,000	3	55,006
WI	SOUTH MILWAUKEE POLICE	2	\$4,581	1	20,958
WY	CASPER POLICE	2	\$450,000	6	46,742

## SUMMARY OF ROUNDS ONE, TWO, AND THREE AWARDS

NUMBER OF STATES WITH AWARD RECIPIENTS	CUMULATIVE AMOUNT AWARDED	OFFICERS FUNDED	NUMBER OF AWARDS
50	\$149,930,333	2,023	250

NOTE: Shaded award recipients have populations  $\geq$  150,000.

## QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

Law Enforcement Grants to States

**QUESTION:** The 1995 Budget proposes the termination of the Byrne Anti-Drug Abuse formula grants program, funded at \$358 million in 1994, that benefits State and local law enforcement agencies. At the same time, the Administration is proposing to increase, from \$50 million to \$100 million, the funding available in discretionary grants which would be under the control of the Justice Department.

The formula grant funds are used by States for a variety of law enforcement purposes. Over 950 task forces and drug units have been established or expanded throughout the country through the use of formula grant funds.

In New Mexico, 11 multi-jurisdictional law enforcement task forces are funded through this program. These task forces integrate Federal, State, and local law enforcement agencies and prosecutors in attacking drug crime in the State.

In addition, New Mexico has used these funds to establish 23 "Drug Abuse Resistance Education" programs, or "DARE". In this program, State and local police officers are trained to instruct grade school students about the dangers of drug abuse.

New Mexico also uses the funds provided through the grant program to help fund a court improvement program; to provide

treatment for drug offenders; and enhance prosecution efforts.

**Why is this proven program being terminated?**

**ANSWER:** In general, I believe that the Department's request, which increases aid to State and local law enforcement agencies by \$1.8 billion, a 300-percent increase, will more than offset the loss of programs funded through the Byrne grants. At the same time, I recognize that one major problem with the elimination of the Byrne formula grants may be the loss of funding for law enforcement officers participating in existing Multijurisdictional Task Forces. In 1993, it is estimated that \$125 million of the total formula grant funding of \$358 million was used to support task force efforts.

Therefore, we have identified \$125 million in the Administration's 1995 budget request that can be used in order to fund them. The proposed offsets to the pending request include: a \$50 million reduction in the public safety and community policing grants for 1995; \$50 million from the proposed increase for funding Byrne discretionary grants; and \$25 million from the proposed \$69 million increase in funding for the Office of Juvenile Justice and Delinquency Prevention. The Administration is also supporting an amendment to the crime bill to make the Byrne grant program eligible for funding from the Crime Control Fund. This is necessary to permit use of the \$50 million offset from the policing grants for Byrne grant funding.

It is also possible that the \$125 million could be provided from the \$303 million in requested Crime Control Funds. However, given the many valuable programs authorized in the Crime Bill, it would be difficult to support full restoration of the Byrne formula grants from this source.

**QUESTION:** If the program is being terminated to save funds, why are you requesting an increase of \$50 million for the discretionary grants program?

**ANSWER:** As mentioned previously, the Administration is amending its initial 1995 request for the Byrne formula program from zero funding to \$125 million. The proposed offsets for these funds will include \$50 million from the Crime Control Fund, \$25 million from the increase of \$69 million initially requested from Juvenile Justice, and \$50 million from the proposed increase for Byrne discretionary grants. Therefore, the amended request will maintain the discretionary program at the 1994 level of \$50 million.

#### Model Juvenile Justice Code

**QUESTION:** When I visited my State in February, I took time to visit with police in Albuquerque. One of the biggest problems they cited as an obstacle to curbing violent crime are the outdated juvenile justice provisions of State and local criminal codes.

Criminal laws affecting juveniles were written in a different era. Increasingly, we see young people actively involved in criminal gangs. Many of them are very sophisticated about the law as it affects them. Albuquerque police told me of many instances where arrested offenders simply laughed in their faces, knowing they will be on the streets later that night.

In addition, many States allow for juvenile offenders to have their crime history "wiped clean" when they become adults. Unfortunately, laws that were intended to give youth a second chance simply allow many of them to begin a new round of violent criminal activity without the burden of a criminal history.

While it might not be reasonable to mandate new juvenile justice codes for States at the Federal level, it may be desirable to develop a model juvenile justice code to assist the States. I know in the past this subcommittee has asked the National Institute of Justice, which is funded through the Justice Department, to develop a model antistalking statute.

Do you believe it would be desirable for congress to commission the National Institute of Justice, or some other entity, with the responsibility to develop a model juvenile justice code that reflects the reality of today's crime environment?

ANSWER: I believe it would be very useful to develop a model juvenile justice code to assist State legislatures in developing appropriate legal system responses to serious and violent juvenile crime. The need for a model juvenile code is illustrated, for example, by the information that our Office of Juvenile Justice and Delinquency Prevention (OJJDP) recently synthesized on "Transfer of Juveniles to Criminal Court". This publication is currently in the draft stage and will be published by OJJDP in the near future. It summarizes the States' use of the three mechanisms for transfer of juveniles to criminal court: judicial, prosecutorial, or legislative transfer. In any given State, one, two, or all three transfer mechanisms may be in place. This information suggests that the States are taking a wide variety of approaches to the transfer issue, often without the benefit of knowledge of their relative effectiveness and impact on the justice system.

Development of a model juvenile code should be a coordinated effort involving key players in the juvenile justice field, including legislators, judges, corrections officials, police, youth service agency representatives, and others. Their input in the assessment and selection of approaches will be essential to use of the product. Therefore, resources should be provided to involve a broad range of juvenile justice representatives.

Model juvenile justice code activity should be the responsibility of our Office of Juvenile Justice and Delinquency Prevention and its National Institute for Juvenile Justice

and Delinquency Prevention (NIJJDP). Drafting such a code would tie in well with the program development work OJJDP is currently doing on its Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders and with NIJJDP's Standards setting responsibility. Moreover, the Office is currently reviewing many State legislative proposals for juvenile justice reforms.

#### Juvenile Justice Grants

**QUESTION:** The Justice Department is requesting an increase of \$69.2 million in Juvenile Justice programs, for a total of \$172.2 million in 1995.

Of the new funds being requested, \$35 million would be for a new "State Challenge Activities" program, as authorized by the Juvenile Justice Act. How would these funds be used?

**ANSWER:** OJJDP would award these funds to the States to begin implementation of the "Challenge Grant" activities program. This new program was established as Part E of Title II of the Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974, as amended by 1992 amendments to the Act. The \$35 million initially requested for start-up is one-half of the amount that would be allocated to the States under the Part B formula grants program as requested in the fiscal year 1995 budget. However, as a result of the proposed budget amendment to restore \$125 million to the Byrne formula grant program, the Juvenile Justice request will be reduced by \$25 million. Of that amount, \$20 million would come from the State Challenge program request, thereby reducing the requested amount to \$15 million.

Participation in the State Challenge grant program is voluntary on the part of the States. Each State is eligible to receive up to 10 percent of the amount of the State's formula grants program allocation for each challenge activity that the State agrees to undertake. The term "challenge activity" includes the following ten program purposes set forth in Section 285 (b) (2) of the JJDP Act:

1. Developing and adopting policies and programs to provide basic health, mental health, and appropriate education services, including special education, for youth in the juvenile justice system as specified in standards developed by the National Advisory Committee for Juvenile Justice and Delinquency Prevention prior to October 12, 1984.
2. Developing and adopting policies and programs to provide access to counsel for all juveniles in the justice system to ensure that juveniles consult with counsel before waiving the right to counsel.
3. Increasing community-based alternatives to incarceration by establishing programs (such as expanded use of probation, mediation, restitution, community service, treatment, home detention, intensive supervision, and electronic monitoring) and developing and adopting a set

of objective criteria for the appropriate placement of juveniles in detention and secure confinement.

4. Developing and adopting policies and programs to provide secure settings for the placement of violent juvenile offenders by closing down traditional training schools and replacing them with secure settings with capacities of no more than 50 violent juvenile offenders with ratios of staff to youth great enough to ensure adequate supervision and treatment.
5. Developing and adopting policies to prohibit gender bias in placement and treatment and establishing programs to ensure that female youth have access to the full range of health and mental health services, treatment for physical or sexual assault and abuse, self defense instruction, education in parenting, education in general, and other training and vocational services.
6. Establishing and operating, either directly or by contract or arrangement with a public agency or other appropriate private nonprofit organization (other than an agency or organization that is responsible for licensing or certifying out-of-home care services for youth), a State ombudsman office for children, youth, and families to investigate and resolve complaints relating to action, inaction, or decisions of providers of out-of-home care to children and youth (including secure detention and correctional facilities, residential care facilities, public agencies, and social service agencies) that may adversely affect the health, safety, welfare, or rights of resident children and youth.
7. Developing and adopting policies and programs designed to remove, where appropriate, status offenders from the jurisdiction of the juvenile court to prevent the placement in secure detention facilities or secure correctional facilities of juveniles who are non-offenders or who are charged with or who have committed offenses that would not be criminal if committed by an adult.
8. Developing and adopting policies and programs designed to serve as alternatives to suspension and expulsion from school
9. Increasing aftercare services for juveniles involved in the justice system by establishing programs and developing and adopting policies to provide comprehensive health, mental health, education, and vocational services and services that preserve and strengthen the families of such juveniles.
10. Developing and adopting policies to establish:
  - a. a State administrative structure to coordinate program and fiscal policies for children who have emotional and behavioral problems and their families among the major child serving systems, including

schools, social services, health services, mental health services, and the juvenile justice system; and

b. a statewide case review system.

**QUESTION:** The request also includes a total of \$30 million for incentive grants for local delinquency prevention programs. My understanding is that eligible activities include services to children, youth and families including recreation, tutoring and remedial education, work skills, health and mental health, alcohol and substance abuse prevention, leadership development, and accountability.

I support such activities; indeed, I sponsored a provision in the Senate crime bill to expand after-school recreation activities for youth.

Are you familiar with my proposal? If not, could you review it and determine whether or not it is something the Administration could support?

**ANSWER:** I support prevention activities, including after-school programs and recreation activities for youth and their families.

I am familiar with and support your efforts to develop meaningful after-school programs. Such new programs, which complement other after-school and recreation programs, can play a critical role in renewed community efforts, from New York to New Mexico, to prevent youth crime. As a recent poll sponsored by the Children's Defense Fund revealed, the majority of parents assert that recreation and other after-school programs are just as important in preventing delinquency as putting more police officers on the street.

A report issued by the Carnegie Corporation, "A Matter of Time," also highlights the need for after school and recreation programs. "A Matter of Time" concludes that to be fully effective, after-school care programs for adolescents must address a range of needs. I would hope that in addition to addressing the health needs and physical well-being of children and youth, we can also work together to address their need to develop a sense of social competence, as well as vocational and leadership skills.

I look forward to continuing to work with you on after-school care initiatives and delinquency prevention measures. Through the Coordinating Council on Juvenile Justice and Delinquency Prevention, which I chair, I hope to forge collaborative delinquency prevention efforts with the Departments of Health and Human Services, Housing and Urban Development, Education, Interior, and other agencies. Your leadership and guidance will prove invaluable in these efforts.

Anti-Violent Crime Initiative

**Question:** The President has announced a new "National Anti-Violent Crime Initiative", which is intended to strengthen the partnership between State and local law enforcement officials in attacking violent crime. In an executive summary provided to the committee, the Administration notes that "violent crime" has increased 41 percent in the past ten years" and that "law enforcement professionals attribute most of the increase in violent crime to the growth of gang violence." The executive summary also states figures suggest that more needs to be done to keep pace with this problem on both a Federal and State level. However, the 1995 budget for the Department of Justice proposes personnel reductions in most law enforcement agencies; the Federal Bureau of Investigation (FBI) would lose 861 positions; the Drug Enforcement Administration (DEA) would lose 93 positions; the United States Attorneys would lose 123 positions; the Criminal Division would lose 28 positions; Organized Crime Drug Enforcement would lose 150 positions, including 22 in the DEA and 80 in the FBI.

How will this strategy be implemented if law enforcement agencies are being cut back? How much in funding and personnel will be committed to the Anti-Violent Crime Reduction Initiative in fiscal year 1995?

**ANSWER:** The Administration's Anti-Violent Crime Enforcement Initiative involves people working together, sharing information, and developing strategies that use Federal laws in a focused way to support and assist State and local governments in attacking violent crime. Although violence is basically a local problem that can not be solved by using a top-down approach, the Federal Government can help by creating working partnerships with State and local law enforcement agencies. By using resources provided in the pending crime bill to increase police officers on the streets, by using Federal laws such as the armed career criminal statute to prosecute offenders, and by bringing into play Federal expertise in areas such as wiretaps, the Federal Government can help support State and local law enforcement agencies in fighting violent crime.

Regarding the funding needs of these task forces, the Vice President clearly stated that this initiative doesn't require any new funding as such funds are present in this year's budget. Requisite is a commitment to more effective use of current resources; a commitment that we will pursue vigorously.

Organized Crime Drug Enforcement Program

**QUESTION:** A separate appropriation account provides funding to a variety of law enforcement agencies and bureaus, including agencies in the Treasury Department, for organized crime drug enforcement activities. In 1994 the Congress provided \$382.4 million and 4,201 positions for this appropriation account.

The 1995 request for Organized Crime Drug Enforcement would decrease by \$12.5 million and 150 positions. Indeed, funding would be \$17.6 million below the level necessary to maintain base operations.

What is the rationale for this reduction? Of the 150 positions to be eliminated, how many will be law enforcement agents, and in which law enforcement agencies?

ANSWER: The program changes in the President's budget for the Organized Crime Drug Enforcement Task Force (OCDETF) program in 1995 reflect savings that can be realized in response to the Administration's efforts to streamline the Federal Government and do more with less. Even with these program changes, a total of 2,236 Federal law enforcement agents will be funded through the OCDETF program, which is 98 percent of the current year authorized agent complement.

A total of 56 law enforcement agents are included among the 150 positions that will no longer be reimbursed with OCDETF funding. The 56 agents are distributed among five agencies as follows:

Drug Enforcement Administration - 10 agents  
Federal Bureau of Investigation - 30 agents  
United States Customs Service - 5 agents  
Bureau of Alcohol, Tobacco, and Firearms - 3 agents  
Internal Revenue Service - 8 agents

QUESTION: Can the President's recently announced violent crime initiative be implemented if this reduction is accepted by Congress? What is the relationship between the existing Organized Crime Drug Enforcement activities of the Justice Department and the new violent crime initiative? Will there be coordination between the two activities, or will they be separate?

ANSWER: The task forces that will result from the implementation of the President's Violent Crime Initiative should not be confused with any existing Federal task forces, including OCDETF. We are not suggesting the creation of a new entity in the Federal law enforcement community. Rather, these new task forces will represent a true partnership between Federal and State and local law enforcement, characterized by the sharing of information and expertise in a manner that will be of mutual benefit. As both the Vice President and I have indicated, no new funding is required to implement this concept. Instead, the Federal law enforcement agencies will develop or enhance methods to ensure that any and all benefits that can be derived from ongoing programs will be made available to all participants.

For more than a decade, the OCDETF program has demonstrated that this concept works, and works well with respect to drug trafficking. The Administration's desire is to do whatever is possible without the infusion of additional Federal resources to apply the OCDETF model to the problem of violent crime.

General Legal Activities -- Criminal, v. Environmental,  
Civil Rights, and Antitrust

**QUESTION:** The 1995 budget request for the various legal divisions would provide for program increases for the Land and Natural Resources Division, the Civil Rights Division, and the Antitrust Division. The Antitrust Division increase would be funded through an increase in the filing fee for Hart-Scott-Rodino premerger notifications.

However, the Criminal Division would be decreased by 28 positions and \$2.4 million from the 1994 enacted level. Does this mean the Administration believes criminal litigation does not have as high a priority as enforcement activities in civil rights, natural resources, or antitrust?

What is the rationale for decreasing the Criminal Division in light of the continuing problem of violent crime in this country?

<u>Division</u>	<u>1994 Enacted</u>	<u>1995 Request</u>	<u>Difference</u>
Criminal	745 positions \$77.9 mil.	717 positions \$75.5 mil	-28 -2.4 mil.
Natural Resources	419 positions 53.4 mil.	626 positions 61.6 mil.	+78 +8.2 mil.
Civil Rights	508 positions 55.6 mil.	626 positions 72.2 mil.	+118 +16.6 mil.
Antitrust	662 positions 66.8 mil.	763 positions 75.4 mil.	+101 +8.6 mil. *

\*(Antitrust program levels include \$20.8 million in fee income in 1994 and \$33.5 million in fee income in 1995; in 1995, most of fee income increase is due to statutory request to increase the premerger filing fee from \$25,000 to \$40,000.)

**ANSWER:** The Criminal Division is requesting 717 positions (390 attorneys and 72 paralegals) and \$75,541,000 for fiscal year 1995. Though no program enhancements are requested, the Division believes that national criminal enforcement priorities can be met with these resources. The Administration is currently reviewing the structure of the Division as to realign resources into national priority initiatives such as violent crime, child exploitation, and health care fraud.

In fiscal year 1994, the Division received a transfer of \$2,235,000 to meet expenses related to the Banca Nazionale del Lavoro (BNL) Task Force. As a bookkeeping measure, the fiscal year 1995 Budget reflects a \$2,235,000 decrease to the Division's base level as a means of showing that this funding is not available to the Division in fiscal year 1995. Excluding the BNL funding, the Division has a net mandatory increase of \$2,038,000 and a net program decrease

of \$2,206,000, resulting in an overall decrease of \$168,000 -- an almost flat budget profile.

The program decrease is really a combination of across-the-board non-programmatic reductions that affected all of the Department's litigating divisions. These reductions included decreases associated with the Administration's policy to reduce the Federal workforce and reduce the deficit, reductions associated with the Administration's objective to reduce administrative costs, and absorption of the unfunded locality pay increase of fiscal year 1994. Again, we should note that these reductions were applied to all of the components of the Department, not just the Criminal Division.

#### Federal Bureau of Investigation

**QUESTION:** The budget assumes that all position decreases will occur in support staff, not among agents. However, no funds are requested for new agent classes, and the FBI is expected to lose at least 200 agents in 1995 due to retirements and resignations. Will these agents be replaced? What impact will the loss of 861 support positions have on the work of the agents? Can you assure us that, at some point in 1995, the FBI Director will not propose to cut agents rather than support staff in order to meet his personnel ceiling?

**ANSWER:** It is estimated that 100 agents will retire/resign from the FBI during the remainder of 1994. With this target figure, the FBI is currently processing qualified on-board support employees for New Agent's Training classes that are tentatively scheduled for July, August, and September of this year. The vacancies may also be filled by former special agents who have requested reinstatement in the FBI as well as qualified support persons. It is expected that the vacancies which occur in 1995 will be filled in a similar manner.

The reduction of support positions may require FBI agents to assume some routine investigative activities that are currently being performed by trained non-agent personnel, e.g., performing criminal arrest record and credit checks, taking complaints from the public, monitoring court-approved electronic surveillance, and conducting surveillance of fixed locations and suspects.

As a result of a hiring freeze which began in May 1992, the FBI has been unable to replace those support employees who have departed as a result of retirement or resignation. Although overall attrition has been low, this situation is problematic in several of our offices located in cities with a high cost of living that, even prior to the hiring freeze, were experiencing difficulty in maintaining an adequate support staff. This situation, when combined with the natural progression of support employees to more senior positions, has produced a serious shortage of entry-level employees in most of the FBI's field offices and at FBI Headquarters.

The loss of funding for the 861 support workyears could result in the need for the FBI Director to propose a reduction in the number of agents, via a reprogramming, sometime during fiscal year 1995 in favor of funding additional support positions. Such a proposal would be based on the need for the most cost effective combination of investigative personnel and the necessary support staff to conduct field and Headquarters operations properly. In response to the need to address the increasing national problem of violent crime immediately, the Director initiated the reassignment of agents from FBI Headquarters and field administrative duties to investigative operations. This initiative began in March 1994, with the temporary assignment of up to 150 Headquarters agents to the Washington Metropolitan and Baltimore Field Offices and will be followed by the permanent transfer of up to 300 Headquarters agents once funding has been made available from the Assets Forfeiture Fund Super Surplus. Many of the positions vacated by these agents must be filled by professional support personnel, including attorneys, scientists, and engineers.

#### Reductions in United States Attorneys

**QUESTION:** In 1994, the United States Attorneys received an appropriation of \$813.8 million from the Subcommittee, which funded 8,239 positions. Although the request of \$830.3 million for 1995 represents an increase, it still falls \$14.1 million short of the funding necessary to maintain base operations. Therefore, the United States Attorneys will lose 123 positions.

Given the amount of litigation necessary to comply with the President's newly-announced initiative on violent crime, why is this reduction being proposed? What effect will it have on the operations of the United States Attorneys?

**ANSWER:** Federal prosecutors handle approximately four percent of all prosecutions in the country. The center of the Attorney General's anti-violence initiative will be a coordinated effort among Federal and State prosecutors and investigative agencies. The Attorney General has required each United States Attorney to name a senior Assistant United States Attorney as the District's Violent Crime Coordinator who will meet with pertinent Federal, State and local officials in order to plan for the coordinated use of available resources. The effective utilization of all available resources and information sharing are key elements of this strategy. Federal prosecutorial resources will be applied to the most significant cases and efforts will be made to do more with less.

#### Prison Construction

**QUESTION:** The request for the prison construction account in 1995 is \$191 million, a 30-percent decrease from the 1994 level. Under Bureau of Prisons estimates the overcrowding in Federal prisons, while declining, will still be at least 10 percent by the end of 1998.

**Do you believe we should tolerate overcrowding in the Federal Prison System? If not, shouldn't we provide for additional prison construction funding to decrease the overcrowding rate even further?**

**ANSWER:** No, we should strive to eliminate overcrowding in the Federal Prison System. There are several management problems caused by prison overcrowding. Perhaps the most obvious and unsettling is the increase in inmate violence inflicted upon BOP staff and other inmates. As crowding has gone up, so too have our negative indicators. During the past year, the rates of homicides, suicides, and assaults on inmates and staff have all risen.

Between 1991 and 1993, there was an 11-percent increase in assaults (in 1993, there were 2,539 assaults of which 51 percent were against staff). Between 1989 and 1993, disruptive group incidents have increased by 288 percent, while the population has grown by 58 percent. In 1993 and 1994, seven significant disturbances have resulted in major property damage and financial costs of approximately \$2,956,000. Further, the number of inmates with offenses related to gangs, firearms, and robbery have increased. The population, in general, has become significantly more disruptive, aggressive, and prone to violence. In 1992, there were four homicides; in 1993, there were seven; and in 1994, there have been nine homicides to date.

The levels of overcrowding that would be produced without the activation of new facilities will, without question, cause working and living conditions to degenerate.

We believe that \$191 million for prison construction is sufficient for 1995, but additional construction funding will be needed in the future. There are a total of 36 new prisons in the design or construction phase. Consistent with the time required to plan, design, and construct a prison properly, the last of these facilities will be completed in 1998. We estimate that over the next five years, the annualization and new activation increases will require approximately \$350 million per year.

**QUESTION:** The crime bill includes a provision for 10 regional prisons, which would be open to State prisoners if the applicable States had laws which required the serving of at least 85 percent of sentences by violent criminals. If the Administration's new Anti-Violent Crime Initiative works, we can expect additional prosecutions and convictions at both the State and Federal Level.

**Do you support this aspect of the Senate crime bill?**

**ANSWER:** There are many drawbacks to the concept of regional prisons. Managing these facilities would mean dealing, on a daily basis, with major differences among States in areas such as sentencing equity and computation, inmate classification schemes, and fundamental correctional policies. Large-scale regionalization would present great difficulty in maintaining important community ties when inmates are

geographically remote from their homes and families. Finally, staffing of these prisons would require approximately 12,000 new staff at a time when the Government is trying to reduce its workforce.

The Bureau of Prisons supports the grant assistance program in the House of Representatives' crime bill. Grant funds would be directed to the States in order to open, expand, operate, or construct prisons to house violent criminals. This would maximize support for the States, and incarcerate violent criminals, in a far more flexible, timely, and cost-effective manner. Under this plan, States would be free to enter into multi-State consortia to create regional prisons; if the advocates of regional prisons are correct about their benefits, then they will have a chance to prove their case in the field. This is a far more effective way to expand prison capacity and achieve greater economies of scale in prison operations at the State level, all in a timely manner. In short, this method will incarcerate more violent offenders, more quickly and more cost-effectively.

**QUESTION:** If the new Anti-Violent Crime Initiative is successful, do you believe additional criminals will be put behind bars? If so, don't we need such regional prisons?

**ANSWER:** Yes, the new Anti-Violent Crime Initiative should have the effect of locking up more criminals primarily at State and local levels. One of the primary goals of the initiative is to provide assistance to States so that they will be able to investigate and prosecute cases more efficiently and effectively, resulting in more convictions at the State and local levels. As a consequence of increased convictions, States will need more prison space, but, not necessarily regional prisons, because, as mentioned above, the regional prison concept has many drawbacks and a State grant assistance program is a more attractive way to provide the required additional prison space.

#### Three Strikes and You're Out

**QUESTION:** The Senate crime bill includes several provisions which would mandate life imprisonment for violent crime and drug offenders who are three-time losers. The President endorsed this concept in his "State of the Union Address". The Administration has submitted its version of this concept to the House and Senate Judiciary Committees.

**How does the Administration's proposal differ from those in the Senate crime bill?**

**ANSWER:** The Administration's "three-strikes" proposal differs from the provisions in the Senate-passed crime bill in several important ways. It's goal is to focus on repeat violent and predatory offenders. There are two relevant provisions in the Senate bill: section 5111, which mandates life imprisonment after conviction of a third violent felony, and section 2408, which mandates life imprisonment

after conviction for a third crime of violence or felony drug offense, or a combination thereof.

Included Offenses. The Administration's proposal is different from the two Senate proposals in its more exacting approach to the offenses covered. It uses a two-part definition of "serious violent felony." First, the definition enumerates particularly serious violent felonies, such as murder, sexual abuse, and kidnapping. Next, the proposal includes a generic definition designed to cover other violent felonies, which in certain circumstances are so serious as to be included as predicates for mandatory life imprisonment. The generic part of the definition is adapted from the term "crime of violence" in section 16 of title 18, United States Code, but requires that the offense have been punishable by a maximum term of imprisonment of ten years or more. In addition, the proposed definition excludes offenses that present force or risk of force against property alone without force or risk of force against another person. However, property offenses that by their nature present a risk of force against persons are included if punishable by imprisonment for ten years or more.

The provisions of the Senate bill use only a generic approach to defining the covered offenses but no specific listing of offenses. Section 5111 is similar to the catch-all part of the Administration's definition of covered offenses, except that section 5111 includes offenses punishable by imprisonment for a maximum term of five, rather than ten, years or more. Of course, our proposal covers offenses punishable by less than ten years if they are in the enumerated categories of crime.

The definition of covered offenses in section 2408 of the Senate bill is different from the Administration's proposal in several ways. First, it includes both felony drug offenses and crimes of violence, while the Administration's proposal includes only the latter category. (Current law provides for mandatory life imprisonment for conviction of a third felony drug offense in certain cases, but not a combination of drug offenses and crimes of violence.) Next, section 2408 includes offenses that involve force or risk of force against property, even if there is no force or risk of force against a person.

Finally, our proposal provides a means by which a defendant may attempt to demonstrate in a limited number of cases that the underlying convictions should not be counted. The burden of proving that the predicate is "non-qualifying" is placed on the defendant. The provision applies only to offenses covered in the "catch-all" part of the definition of "serious violent felony" and to robbery and related offenses. Under the "non-qualifying felonies" provision the defendant must establish by clear and convincing evidence that: (1) no firearm or other dangerous weapon was involved, and (2) the offense did not result in death or serious bodily injury. Thus, relatively minor offenses, such as burglaries or assaults not involving a weapon or

serious bodily injury, would be excluded. The provisions in the Senate bill contain no comparable provisions.

Sequencing of Offenses and Convictions. The Administration's proposal requires that the defendant have two or more prior, separate convictions and that each offense that counts toward the "three strikes," other than the first, have occurred after conviction of the preceding one. This proposal is a true recidivism law. It recognizes that committing a serious violent crime after conviction for a prior such offense -- particularly when this pattern is established on more than one occasion -- evinces a greater degree of culpability and incorrigibility than a serious violent crime not following a prior conviction.

Section 5111 does not require sequencing of offenses after convictions and only mandates that the defendant have been convicted of a violent felony on two or more prior occasions. By contrast, section 2408 requires that the third offense have been committed after two or more prior convictions but does not require the second offense to have occurred after the first conviction.

**QUESTION:** There is not a large number of three-time losers in the Federal system. However, Stanley Greenberg, the President's pollster, has stated, "Three-strikes-and-you're-out is a very powerful statement to the American people that the Government reflects your values and understands your rage. This is about values."

It is also, I submit, a way for the Federal Government to lead the way for the States, where three-time loser provisions can be more effective.

Do you agree with Mr. Greenberg on this point?

**ANSWER:** We agree with the statement that "three strikes and you're out" is a powerful statement to the American people about values. It is also a statement to would-be criminals that violent crime will not be taken lightly and that if it occurs in the circumstances described by the law it will result in a sentence designed to protect the public from future crimes by the imprisoned offender. We also agree that the Administration's three-strikes proposal should serve to lead the way for the States in crafting their own legislation. Such a provision can be extremely effective on the State level because of the volume of violent crime under State jurisdiction.

#### Cops on the Street

**QUESTION:** As part of a supplemental appropriations act last year, and in the regular 1994 appropriations act, the Justice Department was provided funding for community policing and additional State and local police. Various local governments from the State of New Mexico have requested a total of 120 new officers. To date, only 2 officers have been approved for a total of \$131,000.

In contrast, certain States have done relatively well. California has received funding of \$13 million, sufficient to provide for 163 new officers. That's 17 percent of the \$74 million released through this program.

Is there a conscious strategy to provide new officers for only a few large States? Are smaller States and non-urban areas of the country being given adequate consideration in the disbursement of these funds?

ANSWER: Congress established the Police Hiring Supplement Program as a competitive, discretionary grant program. This is not a formula grant program that guarantees a certain level of funding to every State based on population nor is it one that apportions funds based on other criteria, such as rural or urban environments. We devised a program that has applicants competing nationwide in one of two pools: those with populations less than 150,000 and those with populations greater than or equal to 150,000. Each pool was funded at \$75 million, for a program total of \$150 million. A listing that shows the awards made through the Police Hiring Supplement Program is provided to the Committee. Jurisdictions in large and small States have received awards, as have urban and rural communities. By the conclusion of the third round all States had received at least one award.

QUESTION: Please provide for the record in detail the criteria used for disbursing these funds. Include in this description the number of police officers and funding requested by each State, and the officers and funding that were approved by the Justice Department up to the current date.

ANSWER: A copy of the Police Hiring Supplement Program Application Kit is provided, which lists the information each applicant was asked to provide and the specific criteria used to score each application. Also, as noted in the Application Kit, we are looking at equitable geographic distribution and other factors, including violent crime and poverty rates.

Also provided is a chart showing by State the number of applications received, the number of police requested, the amount requested, the number of police hired, and the amount awarded. The number of police requested and the amount requested columns are based on applicant-provided information and are not always accurate. These data often understate or overstate costs. Further, the number of officers requested was taken from the cover sheet of the application. In many instances, applicants did not supply this information on the cover sheet and, therefore, a "zero" was entered into the tracking system. Thus, the number of police officers requested is understated. The number of police hired and the amounts awarded are current through the second round, which was announced February 9, 1994. The round three awards of approximately \$75 million were made on May 12, 1994. (NOTE: See questions of Senator Kerrey.)

## Police Hiring Supplement Program

### FY 1993 DISCRETIONARY PROGRAM APPLICATION KIT

#### Overview

The Department of Justice, Office of Justice Programs, Bureau of Justice Assistance (BJA), announces a new competitive grant program, the program requirements, and administrative guidance for jurisdictions eligible to apply for grants under this program. The *Police Hiring Supplement Program* is hereinafter referred to as the *Program*.

The *Program* will make direct grants to law enforcement jurisdictions to hire and/or rehire additional sworn law enforcement officers as part of an overall plan or strategy to address crime and related problems through community policing. An applicant's plan should reflect its community's unique needs and be responsive to local circumstances. In general, community policing is designed to forge effective crime-fighting partnerships between law enforcement and the community. These partnerships, using a problem-oriented approach, can result in innovative and tailored strategies for preventing and controlling crime. As part of their community policing efforts, communities have used various strategies to address crime problems, including multi-disciplinary crime prevention teams, public education programs, neighborhood resource centers, and foot patrols.

A total of \$150 million is available for these grants, beginning in Fiscal Year 1993. Fifty percent of the funds (\$75 million) will be awarded to applicants serving jurisdictions with populations of 150,000 and above. Fifty percent of the funds (\$75 million) will be awarded to applicants serving jurisdictions with populations of less than 150,000. These funds may be used to help pay salaries and fringe benefits of newly sworn officers, excluding overtime, for a 3-year period. Funding will commence at the time, and not until, a hired or rehired officer is sworn in. The deployment of new hires and the selection of the officers to implement the individual projects funded under this *Program* will be at the discretion of the local jurisdiction.

#### Program Goals and Objectives

The goals of the *Program* are to:

- Increase the number of sworn law enforcement officers serving areas where they are needed most.
- Improve the long-term ability of law enforcement agencies to engage in community policing by deploying additional sworn law enforcement officers.
- Improve public safety through innovative crime prevention, including community policing.

The objectives are to:

- hire additional law enforcement officers to increase sworn officer deployment and expand community policing designed to prevent crime, promote problem solving, and enhance public safety.
- rehire law enforcement officers who have been laid off (as a result of State and local budget reductions) to increase sworn officer deployment and expand community policing.

#### Eligibility Requirements

Applications are invited from all law enforcement agencies, or consortia of law enforcement agencies, that can demonstrate a significant need for additional sworn law enforcement officers and are committed to using community policing to address crime and related problems in their jurisdictions. Eligible applicants under this program are law enforcement agencies that recruit and hire law enforcement officers who serve local communities. State law enforcement agencies may apply if they have law enforcement jurisdiction and provide local law enforcement services to communities within their State.

#### Application Requirements

The application must be developed in consultation with community groups and appropriate public and private agencies and must: A. demonstrate the jurisdiction's public safety need for additional sworn law enforcement officers; B. include a strategy for

community policing in the jurisdiction; C. include an implementation plan that specifies how the funds awarded under this project will help deploy additional sworn police for community policing activities; D. describe a plan to continue the project and retain the positions at the end of the grant period; E. discuss the availability and use of non-project funds and resources from other organizations; and F. provide a detailed budget proposal to support the grant request.

**A. Public Safety Need: (40 percent of the Selection Criteria)**

Provide a narrative that describes the community's need for additional sworn law enforcement officers, as well as the reason(s) local funding is not available to meet these needs. The narrative should describe the jurisdiction's overall crime situation and highlight positive steps already taken to improve law enforcement effectiveness. These highlights might include, for example, any efforts already made to reduce the number of sworn officers in administrative positions. It is important to make the strongest case possible. Include any special conditions or factors that help to document your needs, such as relevant demographic trends and/or significant unemployment problems resulting from plant or military base closings, natural disasters, etc.

In addition to the narrative, provide information on the following factors, to the extent that it is available:

1. The population for the jurisdiction according to the 1990 U.S. Census.
2. The unemployment rate for the jurisdiction for each of the last 5 years.
3. The ratio of population to sworn officers, expressed as number of residents per sworn officer.
4. The number and types of citizen calls for service (i.e., emergency, non-emergency, violent offense, property offense, etc.) handled by patrol officers for each of the last 5 years.
5. The jurisdiction's Uniform Crime Report (UCR) rates (or their equivalent) for all Part I offenses for each of the last 5 years.
6. The actual number of full-time and part-time civilians and sworn law enforcement officers employed during each of the last 5 years.

7. The number of officers deployed, by function (administrative, patrol, and investigative), during each of the last 5 years.

8. The actual number of sworn officers laid off and/or furloughed during each of the last 5 years.

9. The actual operational expenditures for police services and total expenditures by the jurisdiction for each of the past 5 years.

10. The expenditures for police overtime and/or the amount of compensatory time granted in lieu of overtime spending for each of the past 5 years; provide an explanation for overtime expenditures.

**B. Strategy: (30 percent of the Selection Criteria)**

Develop a 3-year strategy that specifies how additional sworn law enforcement officers would lead to increased community policing targeted against crime and related problems in the jurisdiction.

The strategy narrative should describe:

1. Any community policing activities currently used by the applicant, emphasizing those efforts that promote law enforcement partnerships with citizens and non-law enforcement organizations.
2. How the applicant will involve community leaders and residents in planning, implementing, and coordinating this project with non-law enforcement organizations.
3. How the applicant will coordinate this project with other criminal justice system components, including an assessment of the effects of additional police on these agencies.
4. The specific geographic area(s) to be served by this project and the crime and related problems that community policing would address effectively.
5. The specific strategies and innovations that the applicant will employ to respond to identified problems.
6. How the applicant will select the officers who will be assigned to community policing. (These officers do not need to be the officers actually hired with these project funds.)

7. How the applicant will assess how well the project was implemented and the extent to which the strategy has achieved the *Program's* goals and objectives.

**C. Implementation Plan:** (10 percent of the Selection Criteria)

Provide a plan for implementing the strategy described in B. above. Provide a detailed schedule that includes milestones for significant tasks. The schedule and milestones must include the expected dates when newly hired/rehired officers will be sworn and deployed. Also provide the dates when officers will be assigned to project-related community policing activities.

**D. Continuation and Retention Plan:** (10 percent of the Selection Criteria)

Describe how the applicant intends to continue this project and retain the positions created with the project funds following the conclusion of the grant period. If possible, include an endorsement of the jurisdiction's continuation and retention plan by local budget authorities.

**E. Additional Resource Commitments:** (10 percent of the Selection Criteria)

Applicants are encouraged to apply other resources, Federal, State, local, or private, in support of this project. Describe the sources and the amounts of non-project funding or resources that will be available from all sources. Describe how those resources will be used. If no other funds or resources are available, please explain.

**F. Budget Proposal:**

The application must contain a budget and budget narrative that specifically identifies salary and fringe benefits costs. Salary and fringe benefits costs are the only allowable costs. Standard fringe benefits paid by the jurisdiction should be supported by a list of itemized costs explaining what is included in the benefits package. Expenditure of project funds for overtime is expressly forbidden. The budget breakdown must show the number of officers to be hired, the salary and fringe benefits per officer, and the total salary and fringe benefits costs. Estimate

scheduled salary increases, if any, over the life of the grant.

## Program Evaluation

In addition to the assessment referenced in Application Requirements, section B, number 7, a national-level evaluation of this *Program* may be conducted in the future. The evaluation would use some combination of process and impact measures that may include, but would not be limited to, crime and victimization indices, quality-of-life measures, community perceptions, indications of changes in management philosophy, and individual police perceptions of their own work. Evaluators may visit sites to collect data for the evaluation. All selected applicants must be willing to participate in such national evaluation.

## Selection Criteria

Applications will be evaluated based on the extent to which they meet the following weighted criteria:

Public Safety Need	40 percent
Soundness of Strategy	30 percent
Clarity and Appropriateness of Implementation Plan	10 percent
Continuation and Retention Plan	10 percent
Additional Resource Commitments	10 percent

The Department of Justice will award grants to those applicants that best meet all these criteria. Consideration may also be given to equitable distribution of grants based on geographic or other factors.

## Federal Share

For each officer funded under this program, the Federal share may not exceed the greater of (1) 75 percent of the total salary and benefits over the life of the grant, up to a maximum of \$75,000; OR (2) 50 percent of the total salary and benefits over the life of the grant. The authorized Federal share per officer may be increased upon submission of sufficient evidence of extraordinary economic hardship, resulting from such factors as economic dislocation, a natural disaster, or other severe mitigating circumstances. An increase in the Federal share will

be granted only in the most extreme circumstances. If the applicant agency is requesting an increase in Federal share, include the narrative and documentation justifying the request as an appendix to the application. Indicate on Standard Form 424--Budget Information--in Section F, Block 23, that a request is being submitted. Grantees may specify how the Federal share is disbursed over the life of the grant.

### Distribution of Funds

As stated in the Overview, the total amount available for this program is \$150 million, which will be allocated as follows:

1. \$75 million will be allocated for grants to applicants serving jurisdictions with populations of 150,000 and above.
2. \$75 million will be allocated for grants to applicants serving jurisdictions with populations of less than 150,000.

### Application Process

All applications must be submitted on 8½ x 11 paper. The program narrative portion of the application should be no more than 30 pages double-spaced and should be printed on one side of the paper only. All applicants must also submit an Application for Federal Assistance (Standard Form 424), a signed original and three copies. A copy of this form is provided in Appendix B of this application kit. Video presentations will not be accepted. Applications submitted via FAX will not be accepted.

Executive Order 12372 requires applicants from State and local units of government or other organizations providing services within a State to submit a copy of the application to the State Single Point of Contact (SPOC), if one exists, and if the Program has been selected for review by the State. A list of the State Single Point of Contacts is available in Appendix A of this application kit. Applicants must contact their State SPOC to determine if the Program has been selected for review by the State.

In addition to the required standard assurances that are part of the Standard Form 424, each application must include a certification that Federal funds made

available under the grant will not be used to supplant State or local funds, but will be used to increase the amount of State or local funds that would be available for law enforcement purposes in the absence of Federal funds.

In submitting applications which involve a consortium of more than one agency, the relationships among the parties must be set forth in the application. In the event of a consortium submission, one agency must be designated as the payee to receive and disburse project funds and to be responsible for the supervision and coordination of the activities of the consortium members. Each co-applicant must sign the Standard Form-424.

The original and three copies of the application must be sent to:

U.S. Department of Justice  
Office of Justice Programs  
Control Desk, Room 948  
633 Indiana Avenue, N.W.  
Washington, DC 20531

### Application Format

The following format and guidance are provided to assist the applicant in writing and organizing the program narrative section of the application. To assist the application review, the narrative should be presented in the same order as in the Application Requirements above:

**Public Safety Need Section:** This descriptive narrative should respond to Section A, page 2. Information relating to items 1-10 should be displayed in a list format in the order in which they appear.

**Strategy Section:** This descriptive narrative should respond to Section B, page 2.

**Implementation Plan Section:** This descriptive narrative should respond to Section C, page 3.

**Continuation and Retention Plan Section:** This descriptive narrative should respond to Section D, page 3.

**Additional Resource Commitments Section:** This descriptive narrative should respond to Section E, page 3.

**Budget:** Use Standard Form 424--Budget Information--to display the total cost for each allowable category (i.e., Salary and Fringe Benefits) of the application. Refer to the Federal Share section if an increase in the Federal share is requested.

**Budget Narrative:** Include an itemization of proposed costs for personnel salaries, fringe benefits, and any scheduled salary increases. This descriptive narrative should respond to Section F, page 3. The narrative should also provide detail on Federal and non-Federal shares.

**\*\*STANDARD FORM 424:** Most items on the cover page of the Standard Form 424 are self-explanatory. For purposes of this application, please include the following information:

**Face Sheet, Block 7**

Type of Applicant: If the applicant is representing a consortium of agencies, specify by checking Block N and entering Consortium.

**Face Sheet, Block 10**

Catalogue of Federal Domestic Assistance: The Number for this program is 16.580.

Title: Drug Control and System Improvement Discretionary Grant Program

**Face Sheet, Block 11**

Descriptive Title of Applicant's Project: List the following information in this order:

Police Hiring Supplement

Population of jurisdiction to

be served: \_\_\_\_\_

Total number of sworn officers to

be hired: \_\_\_\_\_

Name of jurisdiction to be served (i.e., "County of" or "City of"): \_\_\_\_\_

**Section F, Block 23**

Indicate if the Applicant is requesting an increase in the Federal share.

### Award Period

Grants will be awarded to help pay for salary and fringe benefits for a 3-year period.

### Maximum Award Amount

- Eligible applicants serving a jurisdiction with a population of less than 150,000 may apply for a maximum of \$1 million over the life of the grant.
- Eligible applicants serving a jurisdiction with a population between 150,000 and 749,999 may apply for a maximum of \$2 million over the life of the grant.
- Eligible applicants serving a jurisdiction with a population between 750,000 and 2,000,000 may apply for a maximum of \$3 million over the life of the grant.
- Eligible applicants serving a jurisdiction with a population in excess of 2,000,000 may apply for a maximum of \$4 million over the life of the grant.

No waiver of the maximum award amounts will be granted.

### Application Deadlines

Applications for funding under this program will be considered competitively in three rounds. Funding will be distributed over the three rounds. Applications that are not selected in the first two rounds will be reconsidered during the subsequent round(s). It is anticipated that awards will be made in November and December, 1993.

**Round 1:** Applications received no later than October 14, 1993, will be considered under Round 1.

**Round 2:** Applications received no later than November 1, 1993, will be considered under Round 2.

**Round 3:** Applications received and/or post-marked no later than December 1, 1993, will be considered under Round 3.

### Contact

For further information or to obtain technical assistance in preparing your application, contact the U.S. Department of Justice, Bureau of Justice Assistance at (202) 307-1480, Monday through Friday, 8:00 a.m. - 5:00 p.m., Eastern time.

## POLICE HIRING SUPPLEMENT PROGRAM SUMMARY TOTALS BY STATE—MARCH 30, 1994

State	No. of applications	No. of officers requested <sup>1</sup>	Amount requested <sup>1</sup>	No. of officers funded	Amount awarded
ALABAMA .....	82	296	\$19,215,260	4	\$192,847
ALASKA .....	16	47	4,605,212		
AMERICAN SAMOA .....	1	20	404,940		
ARIZONA .....	51	307	20,208,709	7	525,000
ARKANSAS .....	35	135	8,458,178	8	472,875
CALIFORNIA .....	142	859	89,135,044	150	13,003,074
COLORADO .....	44	171	10,161,102	26	1,950,000
CONNECTICUT .....	22	109	10,249,773	3	275,580
DELAWARE .....	10	59	4,349,886	26	1,868,532
DISTRICT OF COLUMBIA .....	1		1,969,611		
FLORIDA .....	103	785	57,531,526	87	6,555,343
GEORGIA .....	71	330	20,964,333	14	836,946
HAWAII .....	3	53	3,966,419		
IDAHO .....	17	22	2,012,397		
ILLINOIS .....	151	551	42,061,736	81	5,918,266
INDIANA .....	59	215	19,991,769	26	1,949,982
IOWA .....	52	179	9,692,805	13	975,000
KANSAS .....	32	116	8,005,795		
KENTUCKY .....	47	111	7,316,389	3	205,362
LOUISIANA .....	53	381	19,831,050	1	42,561
MAINE .....	26	49	3,415,548	6	450,000
MARYLAND .....	40	259	18,324,772	45	2,289,007
MASSACHUSETTS .....	77	426	35,605,963	29	2,195,331
MICHIGAN .....	76	303	20,976,934	41	3,238,572
MINNESOTA .....	63	156	11,609,369		
MISSISSIPPI .....	67	318	15,518,341	16	1,086,427
MISSOURI .....	72	210	15,575,681	23	1,725,000
MONTANA .....	15	39	3,500,905	6	438,922
NEBRASKA .....	16	40	4,194,400		
NEVADA .....	8	43	3,574,680		
NEW HAMPSHIRE .....	35	68	5,556,919		
NEW JERSEY .....	108	525	44,350,397	48	3,833,856
NEW MEXICO .....	24	121	8,532,514	2	131,922
NEW YORK .....	131	676	55,715,541	58	4,248,356
NORTH CAROLINA .....	81	363	16,613,626	34	2,279,983
NORTH DAKOTA .....	14	14	584,804		
OHIO .....	126	498	35,939,844	44	2,998,360
OKLAHOMA .....	77	267	18,119,044	8	600,000
OREGON .....	36	128	10,539,295	13	975,000
PENNSYLVANIA .....	104	363	26,687,410	22	1,641,660
PUERTO RICO .....	11	222	10,757,827		
RHODE ISLAND .....	16	66	7,105,925		
SOUTH CAROLINA .....	56	206	11,797,469	10	640,436
SOUTH DAKOTA .....	10	29	1,738,516		
TENNESSEE .....	61	274	15,189,536	2	110,455
TEXAS .....	105	665	37,879,549	62	4,860,553
UTAH .....	29	98	8,385,134		
VERMONT .....	14	31	2,241,254		
VIRGIN ISLANDS .....	1	12	930,134		
VIRGINIA .....	63	414	28,525,318	68	4,491,415
WASHINGTON .....	76	270	20,480,851	23	1,776,777
WEST VIRGINIA .....	31	89	6,257,394		
WISCONSIN .....	62	282	11,261,966	7	534,581
WYOMING .....	8	15	1,133,398	6	450,000
GRAND TOTALS .....	2,731	12,285	878,752,192	1,022	75,767,981

<sup>1</sup> Based on information provided by the applicant, which is often under or over reported.

Weed and Seed Program

**QUESTION:** For fiscal year 1994, Congress provided \$13.1 million in appropriated funds for the Weed and Seed program. However, the Department intends to supplement these funds with \$10 million from the Byrne discretionary grant program and approximately \$7.8 million from the Assets Forfeiture Fund.

Please provide a listing (in priority order) of the requests pending for new Weed and Seed sites.

**ANSWER:** There is no pre-established priority listing for the 49 sites that are eligible to compete for Operation Weed and Seed new site funding in fiscal year 1994. Those 49 sites include the 10 officially recognized sites and the 39 sites that had applied for official recognition of a strategy that they are implementing by January 31, 1994. The list of sites appears below.

SITES ELIGIBLE TO COMPETE FOR NEW SITE FUNDINGA. Officially recognized sites

Akron, OH	Milwaukee, WI
Benton Harbor, MI	Mobile, AL
Euclid, OH	Shreveport, LA
Indianapolis, IN	Springfield, IL
Las Vegas, NV	Wichita, KS

B. Sites applying for official recognition by Jan. 31, 1994

<u>Alabama:</u> Birmingham	<u>Georgia:</u> Savannah
<u>Arizona:</u> Phoenix	<u>Illinois:</u> Austin (Chicago)
<u>California:</u> Fresno San Jose	<u>Maryland:</u> Baltimore
<u>Connecticut:</u> Bridgeport Danbury Hartford New Britain Norwalk	<u>Michigan:</u> Grand Rapids Holland Muskegon Heights

<b>Florida:</b> Duval Co./Jacksonville Eatonville Gainesville Hialeah Hillsborough Co./Tampa Lee Co./Fort Myers Manatee Co./Bradenton Marion Co./Ocala Miami/Dade Co. Orlando/Orange Co. Polk County Riviera Beach Sarasota Seminole/Brevard Pinellas Volusia County	<b>New York:</b> Brooklyn Buffalo Mott Haven (South Bronx)  <b>Ohio:</b> Lima  <b>Oklahoma:</b> Oklahoma City  <b>Texas:</b> Corpus Christi Dallas  <b>Utah:</b> Salt Lake City
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**QUESTION:** Given the fact that the budget request for the Weed and Seed program for fiscal year 1995 is essentially the same as 1994, how will new sites be funded on a continuing basis?

**ANSWER:** The President's budget request for the Weed and Seed program for 1995 is \$13.456 million, plus an additional \$10 million of Byrne discretionary grant funds will be targeted to the Weed and Seed program, for a total of \$23.456 million. This amount will cover continuation costs for the 10 sites initiated in 1994, costs for additional sites to be initiated in 1995, and training and technical assistance costs.

**QUESTION:** Which of the present 21 sites will no longer be eligible for funding in 1995, given the decision to sunset Weed and Seed sites after 36 months (except those begun in 1991, which will be limited to 4 years of funding)?

**ANSWER:** Of the 21 currently funded sites, the following 20 will reach the three-fiscal-year funding limit set by the Attorney General in fiscal year 1994 (four fiscal years in the case of sites initiated in fiscal year 1991):

Atlanta, GA Charleston, SC Chelsea, MA Chicago, IL Denver, CO Fort Worth, TX Kansas City, MO Los Angeles, CA Madison, WI Omaha, NE	Philadelphia, PA Pittsburgh, PA Richmond, VA San Antonio, TX San Diego, CA Santa Ana, CA Seattle, WA Trenton, NJ Washington, DC Wilmington, DE
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The North Charleston site, initiated in fiscal year 1993, will be eligible to receive continuation funding in fiscal year 1995.

National Performance Review Laboratory

**QUESTION:** According to the Justice Department budget Justification (page 10 of Weed and Seed Fund), in 1994 the Department is initiating a National Performance Review Laboratory "Related to Comprehensive Anti-Crime and Social Service Delivery Strategies". Up to five Weed and Seed sites would be selected for this lab.

**How will this lab work?**

**ANSWER:** The Executive Office for Weed and Seed and the Bureau of Justice Assistance are providing financial support of approximately \$1.4 million to the National Performance Review Laboratory Related to Comprehensive Anti-Crime and Social Service Delivery Strategies. The purpose of the NPR lab is to develop and demonstrate an approach for enhancing the delivery of Federal support to troubled neighborhoods for coordinating State, local, and private resources, and evaluating the effectiveness of the community strategies in revitalizing neighborhoods. Up to five Weed and Seed sites will be selected to participate in the NPR lab.

A primary component of this activity will be the provision of technical assistance to the sites for comprehensive strategy development and the design and implementation of component programs. The lab is designed to:

- Identify obstacles and possible solutions that local communities encounter in using Federal resources when designing and implementing neighborhood-based comprehensive programs. This will involve mapping the flow of Federal resources into the community.
- Assist neighborhoods to: (1) refine and enhance their Weed and Seed strategy, emphasizing community policing and social service delivery; and (2) design, fund, and evaluate the programs they select to implement.
- Establish a Federal Resource Assistance Center to provide guidance on the use of Federal funds to assist communities in developing integrated neighborhood-based strategies and supporting component programs.
- Design and implement an evaluation of the results obtained by the communities from this project.

**QUESTION:** How will sites be chosen?

**ANSWER:** As the NPR lab is currently envisioned, up to 5 Weed and Seed sites would be selected from a group of 10 eligible sites (including pilot demonstration and officially recognized sites).

**QUESTION:** What will be the nature of the programs funded by other Departments as part of this multi-agency effort?

ANSWER: The other Department programs as part of this effort are those that deliver support to troubled neighborhoods. Examples include:

Department of Housing and Urban Development:

Family Investment Centers  
 Tenant Opportunity Program  
 Community Policing Training  
 Strategy Development Training

Department of Labor:

Youth Fair Chance Program

Small Business Administration:

Small Business Development Center

Department of Health and Human Services:

Aid to Families with Dependant Children/JOBS Program  
 Community Partnership Program

Department of Agriculture:

Youth-at-risk activities and technical assistance from the extension service to assist in designing urban 4-H programs.

QUESTION: How will funding decisions be coordinated with other agencies participating in this effort?

ANSWER: This NPR lab involves designing and implementing flexible Federal funding approaches, including:

- leveraging State, local, and private resources in support of the comprehensive strategy;
- multiagency review of community strategies and component programs;
- single applications for multiple Federal resources; and
- single applications for multiple Federal resources combined in a single award.

Assets Forfeiture and Working Capital Fund Balances

QUESTION: My understanding is that the Justice Department has \$53 million available from 1993 surplus funds through the Assets Forfeiture Fund. In addition, the Working Capital Fund carried over into 1994, \$98.7 million in uncommitted funds.

Both these balances can be used to enhance law enforcement, including additional equipment and automated data processing.

Will we be receiving a reprogramming for the use of these funds? How do you propose that they be used in 1994?

ANSWER: The Department will forward to the Congress the required notification as soon as the Office of Management and Budget has reviewed the Attorney General's decisions to use the super surplus funds and Working Capital Fund balances this year. The Department has evaluated priority needs for these resources in view of constrained budgets

enacted for 1994 and the need to absorb significant price increases this year. The formal notification was sent to the Office of Management and Budget on May 23, 1994.

**QUESTION:** Do all these funds need to be obligated in 1994, or can any portion of them carryover for use in 1995?

**ANSWER:** The super surplus balances and Working Capital Fund balances are available "without fiscal year limitation," and, therefore, do not have to be fully obligated in 1994. However, it is highly likely, given funding needs across the various law enforcement agencies, that most of these surplus balances will be obligated in 1994.

**QUESTION:** What is your estimate of the uncommitted balances that might be available in the Working Capital Fund at the beginning of fiscal year 1995?

**ANSWER:** Until decisions are final regarding the use of the Working Capital Fund balances this year, it is not possible to estimate the amount that might carry forward into 1995. While it is possible that further unobligated balances from previous years may be available for transfer into the Working Capital Fund, it is unlikely that amounts will approximate last year's transfers. In 1993, unobligated balances from five previous years were reviewed and made available. This year, Department components will have only one additional year's balances that may be available for transfer. Further, Department components are reluctant to transfer prior year balances until they know the outcome of back pay decisions resulting from the Adams and related case settlements. These settlements may result in major new payments from prior year balances.

**QUESTION:** Will a so-called "super-surplus" be available in the Assets Forfeiture Fund at the end of fiscal year 1994? If so, do you have an estimate of balances?

**ANSWER:** No super surplus balance is anticipated for 1994. Additional financial responsibilities proposed for the Fund in 1995 will use significant resources, including up to \$16 million for the payment of overtime for State and local law enforcement officers (of which \$2 million is for the Metro Area Drug Task Force) and up to \$8 million for nonpersonnel costs of the United States Marshals Service seized asset program. Further, in 1994 \$7.75 million has been committed for funding at Weed and Seed sites. This may be a recurring requirement. These additional costs were not funded in 1994 and prior years. Therefore, the carry-forward balance into 1995 will need to be increased to cover these new demands on the Fund.

#### Senior Executive Service Personnel

**QUESTION:** Please provide the committee with the number of Senior Executive Service (SES) positions for each applicable bureau, division, or account within the Justice Department, including a chart displaying the ratio of SES positions to total positions.

For those divisions with a ratio of better than 1 SES position per 100 total positions, please provide a detailed justification explaining the reason for the number of such senior positions.

Please provide the committee with an estimate of the savings that could be achieved in each applicable division if the ratio of SES positions compared to total employees did not exceed 1 to 100.

ANSWER: A chart providing the Department's ratio of SES positions to total positions is attached. There are components within the Department that do not meet the 1 to 100 ratio because of the structure of that component or the nature of the workload. The components that do not meet the ratio are the:

- . General Administration - this component includes many senior policy managers that oversee not only the immediate policy offices, but the Department as a whole. Employees assigned to the senior policy offices are directly involved in the management of the Federal criminal justice system. The ratio of SES positions to total GA positions is appropriate due to the scope of responsibility for the Department's national investigative and litigative policies for the Federal Government. Those employees assigned to the Senior Policy Offices are appropriately classified as SES employees.
- . Office of the Inspector General - this component also oversees the programs of the Department as a whole in addition to its direct staff.
- . General Legal Activities and the Antitrust Division - the Department's legal divisions supervise not only employees in their components, but also the work of many other attorneys involved in Federal litigation. Therefore, this SES ratio is appropriate.
- . United States Trustees - the component managers not only oversee their direct staff, but also the work of private trustees. Therefore, this is an appropriate SES ratio.
- . National Institute of Corrections - the one SES position in this component is the head of the organization. It is appropriately headed by an SES-level manager.
- . Office of Justice Programs (OJP) - this organization is unique in the Department, in that there are six positions legislatively mandated to be "appointed by the President, by and with the advice and consent of the Senate". Traditionally, each of the Presidential appointees has a deputy who is an SES noncareer appointment. Given the nature of the agency's structure, which was established by Congress, it would be extremely difficult to achieve a ratio close to 1 SES position per 100 total positions. Each of the OJP bureaus is responsible for separate and distinct programmatic missions and each retains independence in the areas of program

development, program implementation, and grant making authority. The overall programmatic mission of OJP and its five bureaus is also unique in the Justice Department.

The Department is in need of employees of high caliber that possess specialized knowledge, expertise, and experience. Therefore, we cannot estimate a saving because we believe that these positions are appropriately graded.

DEPARTMENT OF JUSTICE  
RATIO OF SES POSITIONS TO TOTAL POSITIONS

APPROPRIATION	1994 POSITIONS					# EMPLOY PER SES
	SES	FTP	OTP	REIMB	TOTAL	
DISCRETIONARY FUNCTIONAL CODE: 750						
GENERAL ADMINISTRATION.....	48	1,156	106	847	2,157	43.94
OFFICE OF THE INSPECTOR GENERAL.....	7	335	4	81	427	60.00
WEED AND SEED FUND.....	...	7	...	...	7	...
U.S. PAROLE COMMISSION.....	...	78	25	...	103	...
GENERAL LEGAL ACTIVITIES.....	127	3,524	131	266	4,048	30.87
ANTITRUST DIVISION.....	26	451	32	211	720	26.69
U.S. ATTORNEYS.....	6	8,239	930	915	10,090	1680.67
U.S. MARSHALS.....	8	3,645	138	62	3,853	480.63
COMMUNITY RELATIONS SERVICE.....	1	119	8	...	128	127.00
U.S. TRUSTEES.....	25	1,139	14	...	1,178	46.12
FEDERAL BUREAU OF INVESTIGATION.....	178	21,937	150	2,756	25,021	139.57
DRUG ENFORCEMENT ADMINISTRATION.....	60	5,996	80	1,035	7,171	118.52
IMMIGRATION AND NATURALIZATION SERV	34	19,441	1,019	7,475	27,969	821.62
FEDERAL PRISON SYSTEM:						
SALARIES AND EXPENSES.....	41	25,860	222	280	26,403	775.56
NAT'L INSTITUTE OF CORRECTIONS.....	1	52	1	...	54	53.00
BUILDINGS AND FACILITIES.....	...	320	1	...	321	...
FEDERAL PRISON INDUSTRIES.....	4	1,626	24	...	1,654	412.50
COMMISSARY.....	...	...	...	...	...	...
TOTAL, FEDERAL PRISON SYSTEM.....	46	27,858	248	280	28,432	1,241
OFFICE OF JUSTICE ASSISTANCE.....	10	348	40	...	398	38.80
SUBTOTAL, DOMESTIC DISCRETIONARY.....	576	94,273	2,925	13,928	111,702	4,855
FUNCTIONAL CODE: 150						
FOREIGN CLAIMS SETTLEMENT COMMISSK	...	13	2	...	15	...
TOTAL, DISCRETIONARY AUTHORIT	576	94,286	2,927	13,928	111,717	4,855

Radiation Exposure Compensation Payments

**QUESTION:** The Administration is not requesting appropriations from the Radiation Exposure Compensation Trust Fund in 1995. Why is that?

**ANSWER:** The Civil Division is keeping pace with applications, processing them on a timely basis and approving applications which meet the statutory requirements. Through

the end of February, 3,709 claims had been filed; 1,647 claims had been approved; and \$108,851,000 in payments had been made out of the trust fund.

Based upon the availability of funds from the trust fund (see the following responses), no additional appropriations will be needed until 1996, as long as there are no major revisions to the statute before that time.

The reason why 1993 funds are sufficient to cover claims through 1995 is that the number of claims received and awards made have been less than original projections. Our original projections were based on necessarily imprecise estimates drawn from epidemiological data. These estimates have proven too high.

**QUESTION:** What is the estimated carryover in appropriations from 1994 to 1995?

**ANSWER:** We have updated our estimates since the submission of the President's budget. At the start of 1994, the Trust Fund balance was \$126,320,000. The 1994 workload is estimated at 1,833 claims, comprising 732 claims pending from 1993 and 1,101 new claims. The Civil Division estimates that 1,625 claims will be resolved, of which 727 will be approved. An estimated \$71,000,000 will be paid from the fund, leaving a balance of \$55,320,000 to carryover into 1995.

**QUESTION:** What are the estimated payments to claimants in 1994 and 1995? Will sufficient funds be available to cover these payments?

**ANSWER:** The Civil Division estimates that \$71,000,000 will be paid to claimants in 1994, leaving a balance of \$55,320,000 million to carryover into 1995. In 1995, the Division estimates approving 492 claims, totaling \$37,500,000. Thus, there will be sufficient funds in the Trust Fund to pay claimants in 1995.

#### Cooperative Agreement Program (CAP) Jail Space

**QUESTION:** The United States Marshals Service (USMS) is responsible for the support of United States prisoners in their custody. An important component of the Marshals Service detention responsibilities is the Cooperative Agreement Program, or CAP. This program provides capital funding to State and local governments for renovation and construction of detention facilities in return for long-term, guaranteed jail space for Federal prisoners.

For 1994, \$16 million is available for CAP through the Bureau of Prisons construction account. Although the average prisoner population under the Marshals jurisdiction is estimated to increase from 20,600 in 1994 to 21,700 in 1995, no funding is proposed for CAP in 1995.

**Why is funding not being requested for this program? Does the Department expect the prisoner population to decrease in the future?**

**ANSWER:** In 1994, the CAP program received an appropriation of \$20 million in the Bureau of Prisons (BOP) Buildings and Facilities (B&F) account. This is in addition to the \$16 million in BOP's B&F account that was reprogrammed to CAP in 1994 from the cancellation of two detention construction projects at Butner, North Carolina and Memphis, Tennessee. Because of changing economic conditions, CAP opportunities, which were more cost effective than construction, became available to provide necessary bedspace in these two areas before the actual construction began.

Although there is still a sizeable shortage of Federal detention bedspace, the Federal detention population appears to have stabilized in 1993, while the sentenced population continues to grow. Thus, with respect to additional bedspace, the priority for the 1995 request is to increase sentenced capacity. However, the request does include increases to relieve overcrowding in detention facilities. Increases are requested in the prison operations account for new activations and annualized operational expenses for a 1,043-bed detention center in Oklahoma City, Oklahoma; a 1,233-bed detention center in Miami, Florida; a 1,000-bed joint INS/BOP contract facility in Eloy, Arizona; and three new detention units at existing facilities.

Despite a relatively stable population, the varied anti-crime bills currently before Congress compound the difficulty related to prisoner population projections. The detention requirements of the Federal Government are beyond the control of the USMS, which is at the receiving end of the Federal law enforcement and prosecution process. Over the past decade, the USMS prisoner population has increased 265 percent as a result of successful law enforcement investigative and prosecutorial initiatives. The federalization of various crimes and the related time necessary for due process has the potential to increase future Support of United States Prisoners funding requirements dramatically.

We are currently projecting an annual detention population growth of approximately five percent. As demonstrated by the following chart, the growth in the Federal detention population has been extremely erratic and unpredictable over the past decade, which makes projecting population levels a formidable task.

<u>Fiscal Year</u>	<u>Average Prisoner Population*</u>	<u>Percent Change Over Previous FY</u>
1984	5,383	Not Available
1985	6,428	19.4
1986	7,329	14.0
1987	7,262	-0.9
1988	8,857	22.0
1989	11,740	32.6
1990	13,390	14.1
1991	16,233	21.2
1992	19,474	20.0
1993	19,641	0.9

\*The annual average of prisoners in custody at the end of each month.

During the first quarter of 1993, the USMS population grew nine percent over the same time period in the previous year. However, the population then stabilized, resulting in an overall annual growth rate of less than one percent. At this time, it would be premature to predict that this slow-growth trend will continue, especially in light of the fact that since 1984, the USMS prisoner population has increased annually by an average of 16 percent per year.

#### Priorities within the Crime Control Fund

**QUESTION:** According to the Justice Department budget justification (page 20 of the Summary Table section), some of the intended uses of funds that would be provided through the Crime Control Fund include efforts "to reinvigorate enforcement of civil rights, antitrust and environmental laws". The regular budget for the Justice Department already includes enhanced budget requests in these areas.

Do you believe a fund set aside for efforts to control and prevent the spread of violent crime should be used for these purposes? Specifically, how much is the Justice Department requesting in each of these areas through the Crime Fund?

**ANSWER:** The reference on page 20 of the Summary Table section is in error. It refers to the enhancement requested for these programs in the regular Justice Department budget. Although enforcement of civil rights, antitrust, and environmental laws are extremely important initiatives, it is not appropriate to use the Crime Fund for these purposes, unless such efforts are associated with the control of violent crime.

#### GSA Rent Increases

**QUESTION:** Overall, GSA rent increases for the Department of Justice are due to increase by \$56.8 million in 1995.

My understanding is that, based on recalculations of GSA rent and on a decision by the Administration to impose a

general reduction on the increase for such rent, savings can be achieved. If so, what savings can be assumed for the Department of Justice, and in what appropriations accounts?

ANSWER: The attached chart provides the information requested. However, it is unlikely that these savings can be achieved unless Congress agrees to the proposal that new Federal buildings will be funded from direct appropriations. Currently, GSA rent rates include a surcharge that is used to fund some new Federal construction. If this surcharge is not removed, this savings will not be achieved. Further, these savings were calculated based on the space inventory estimates developed a year ago. This inventory overstates the Department's total space because Department components have reduced their space requests based on the 1994 appropriations and the Administration's effort to reduce costs. Therefore, this level of savings will be very difficult to achieve.

DEPARTMENT OF JUSTICE  
GSA RENT REDUCTION  
(IN THOUSANDS OF DOLLARS)

APPROPRIATION
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GSA RENT
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**DISCRETIONARY****FUNCTIONAL CODE: 750**

	DIRECT BA	REIM BA
GENERAL ADMINISTRATION.....	(575)	(37)
OFFICE OF THE INSPECTOR GENERAL.....	(159)	(24)
WORKING CAPITAL FUND.....	0	(387)
GENERAL LEGAL ACTIVITIES.....	(1,945)	(99)
ANTITRUST DIVISION.....	(227)	0
U.S. ATTORNEYS.....	(3,189)	(180)
U.S. MARSHALS.....	(1,195)	(95)
COMMUNITY RELATIONS SERVICE.....	(38)	0
U.S. TRUSTEES.....	(179)	0
FEDERAL BUREAU OF INVESTIGATION.....	(7,714)	(572)
DRUG ENFORCEMENT ADMINISTRATION.....	(3,372)	(141)
IMMIGRATION AND NATURALIZATION SERVICE..	(2,558)	(15)
FEDERAL PRISON SYSTEM.....	(448)	0
OFFICE OF JUSTICE ASSISTANCE.....	(118)	0

SUBTOTAL, DOMESTIC DISCRETIONARY.....	(21,717)	(1,550)
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**FUNCTIONAL CODE: 150**

FOREIGN CLAIMS SETTLEMENT COMMISSION....	(5)	0
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SUBT, DISCRETIONARY AUTH.....	(21,722)	(1,550)
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PRE-MERGER FILING FEES.....	0	(155)
U.S. TRUSTEES.....	0	(218)
ASSETS FOR FUND PERM BUD AUTH.....	0	(92)
DIVERSION CONTROL FEE.....	0	(298)
IMMIGRATION USER FEE.....	0	(287)
IMMIGRATION LEGALIZATION.....	0	(4)
IMMIGRATION EXAMINATIONS FEE.....	0	(920)
BREACHED BOND/DETENTION FUND.....	0	(14)
SUBT, FEE-FUNDED ACCOUNTS.....	0	(1,988)

<b>TOTAL, DEPARTMENT OF JUSTICE.....</b>	<b>(21,722)</b>	<b>(3,538)</b>
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SUBCOMMITTEE RECESS

Senator HOLLINGS. The subcommittee will be in recess until Tuesday, April 12, subject to the call of the Chair, and we thank you very much.

Ms. RENO. Thank you, Mr. Chairman.

[Whereupon, at 11:40 a.m., Wednesday, March 23, the subcommittee was recessed, to reconvene at 10 a.m., Tuesday, April 12.]

**DEPARTMENTS OF COMMERCE, JUSTICE, AND  
STATE, THE JUDICIARY, AND RELATED  
AGENCIES APPROPRIATIONS FOR FISCAL  
YEAR 1995**

**TUESDAY, APRIL 12, 1994**

**U.S. SENATE,  
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,  
Washington, DC.**

The subcommittee met at 10:07 a.m., in room S-146, the Capitol,  
Hon. Ernest F. Hollings (chairman) presiding.

Present: Senators Hollings, Kerrey, Domenici, Hatfield, and Stevens.

**DEPARTMENT OF COMMERCE**

**NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION**

**STATEMENT OF DR. D. JAMES BAKER, UNDER SECRETARY FOR  
OCEANS AND ATMOSPHERE**

**ACCOMPANIED BY:**

**DOUG HALL, ASSISTANT SECRETARY FOR OCEANS AND ATMOSPHERE**

**DIANA JOSEPHSON, DEPUTY UNDER SECRETARY FOR OCEANS  
AND ATMOSPHERE**

**KATHY SULLIVAN, CHIEF SCIENTIST**

**ANDREW MOXAM, COMPTROLLER**

**OPENING REMARKS**

Senator HOLLINGS. Today we will review the budget requests for the National Oceanic and Atmospheric Administration and Department of Commerce technology programs, including the National Institute of Standards and Technology. We will hear first from Dr. James Baker, the Under Secretary for Oceans and Atmosphere.

For fiscal year 1995, the President's budget requests discretionary appropriations totaling \$1.894 billion. This represents almost one-half the total Department of Commerce's budget.

Dr. Baker, we are pleased to welcome you to the committee with your associates, and we would be delighted to hear from you. Your full statement will be included in the record. You can highlight it if you wish, or read it in its entirety. Just whatever you say. We have not heard from you very much.

Dr. BAKER. Mr. Chairman, thank you very much.

Senator DOMENICI. Mr. Chairman, might I just have a few remarks?

Senator HOLLINGS. Please. I am sorry.

Senator DOMENICI. First, I join you, too, in welcoming our witnesses. The combined budget request for NOAA and NIST is about \$3 billion. That is more than one-half of the total request of the Department of Commerce, which I believe is about \$4.3 billion.

With both agencies we have a couple of major budget issues, and I just want to put them on the table. First, the National Oceanic and Atmospheric Administration assumes \$88 million in new user fees to offset proposed increases for fisheries and marine sanctuary programs. I might say, to my knowledge, we have no details, Mr. Chairman, on how this proposal would be implemented.

Indeed, as currently proposed, the additional fees will add \$52.8 million, almost \$53 million in outlays above the level assumed in the President's budget, according to the Congressional Budget Office, and I think we at least need to know why that is and what effect it is going to have.

For NIST, there is a significant difference, also, between OMB and CBO in the scoring of outlays for grant programs, especially the advanced technology program. The Budget Office, CBO, estimates that OMB has underestimated that by \$72.4 million.

These are only scorekeeping issues, and not necessarily substantive or policy issues, but I think we have to try to iron them out or we will run into difficulty along the way.

Thanks, Mr. Chairman. I am pleased to be here.

Senator HOLLINGS. Very good. Dr. Baker.

#### SUMMARY STATEMENT

Dr. BAKER. Mr. Chairman, Senator Domenici, I am pleased to appear here today in support of our 1995 budget request for NOAA.

I am accompanied by Doug Hall, our Assistant Secretary, and Andy Moxam, our Comptroller. Also, we have our program managers here.

May I say at the beginning, Mr. Chairman, today is the eve of a GOES launch which will occur tomorrow morning at about 2 a.m. It is almost 3 years since your leadership demonstrated the problems in the GOES program and identified the need for a change in the management of that program, the GOES contingency plan, the establishment and recognition by Loral of the problems that need to be identified. Thanks to your leadership and guidance there, we have a program that at least is on schedule and on track to be launched tomorrow morning.

Senator HOLLINGS. We are looking forward to it. We had extensive hearings in the summer of 1991 on this GOES-NEXT satellite program. It was way over budget and way behind schedule. News reports said the sensors didn't work. Mr. Schwartz, from Loral, testified. Loral had just acquired Ford Aerospace. He testified that he could get the GOES program back on track, and I think he has.

Dr. BAKER. Well, as you know, we have restructured NOAA with a very strong Systems Program Office. That Office, plus a recognition within our satellite program of the importance of following that guidance has made a real difference, so we very much appreciate your interest in helping the agency there.

As you know, we have restructured our NOAA budget from the previous organization-based structure to the new budget structure,

which mirrors our strategic plan. This structure allows us for the first time to link NOAA's programs directly with the agencywide goals and objectives. It has been a big help to us by giving us the flexibility to apply our resources across traditional program elements and implement more cost-effective techniques and be more responsive to users.

The Department of Commerce has divided its 1995 budget request into five themes. NOAA programs are included in two of those, one on environmental stewardship and assessment, and one on civilian technology. We felt that the formulation process for NOAA's budget this year was highly interactive and positive. We were engaged fully with the Department of Commerce and the Office of Management and Budget in discussing all the issues, and received good support throughout that process.

Our total 1995 budget request is \$1.964 billion, basically unchanged, a little lower than the 1994 appropriation, but the budget does include significant changes which will advance our environmental research and resource management responsibilities and support the President's high priority agenda items. This is reflected in an increase from fiscal year 1994 of about 8.3 percent, or \$138 million in our "Operations, research, and facilities" account.

I would like just to quickly summarize our 1995 budget initiatives which are reflected in our strategic plan. Our environmental stewardship programs include building sustainable U.S. fisheries, recovering protected species, coastal ecosystems health, and modernizing navigation and positioning services.

We are requesting \$259 million to build sustainable U.S. fisheries. Increases of \$40.6 million are proposed to maintain ongoing operations and to develop fishery management plans to address more effectively the desperate situation that is now facing our Nation's fisheries. We will continue financial support for the eight regional fishery management councils, and we will increase funding for the Fishery Reinvestment Program to assist the fishing industry during periods of stock rebuilding.

We are also continuing our efforts to improve our stewardship of protected marine species. For 1995, we request a total of \$50.6 million, an increase of \$19.2 million over the fiscal year 1995 base to continue to fulfill the statutory responsibilities of the Endangered Species Act and the Marine Mammal Protection Act. The goal is to devise a strategy and approach to reduce listings of species as threatened and endangered.

Coastal ecosystems health requires that economic development is managed to maintain biodiversity and long-term productivity from sustained use. A total of \$167.8 million—including \$7.8 million from the coastal zone management fund—is requested for fiscal year 1995. Our new Center for Coastal Ecosystem Health now being established is an important element in this equation. Full funding for Coastal Zone Management Act grants is included in our request. In fiscal year 1995, we have requested increases of \$3 million for improved management of the Nation's marine sanctuaries and \$2.4 million for habitat conservation.

Proposed funding for modernization of navigation and positioning services is \$76.4 million. Navigation and positioning technologies are evolving rapidly. We are moving toward use of a new auto-

mated system capable of producing traditional paper nautical charts as well as electronic chart products. New survey technology providing full bottom coverage in shallow water will be introduced in the NOAA fleet.

NOAA will begin to apply these systems to improve marine navigational safety, enhance economic competition, and provide information for protection of sensitive coastal marine environments.

In the area of environmental assessment and prediction, we will improve our capability to observe, understand, and predict the environment. Our investment strategy includes the following program initiatives: advancing short-term warning and forecast services, implementing seasonal interannual climate forecasts, and predicting and assessing decadal-to-centennial climate change. In the short-term area, we will significantly improve our forecast and warning services. We are requesting funds to maintain ongoing forecast and warning operations, including continuing the modernization and restructuring of the National Weather Service. In the case of the Nexrad, ASOS, the surface observing procurements, and new office construction, we are on the downside of the funding profile. For the modernization and associated restructuring and demonstration and implementation initiative, the advanced weather interactive processing system, and the current series of GOES and polar satellite procurements, we are on the upside of the funding profile.

In terms of seasonal-interannual forecasts, we will take significant steps toward implementing reliable seasonal-to-interannual climate forecasts to guide economic planning. We aim to provide, in conjunction with our international partners, reliable 1-year forecasts of global climate variability, especially the El Niño southern oscillation. In 1995, we request a total of \$94.4 million for the seasonal-to-interannual climate initiative. Included in this initiative is \$38.6 million for the President's U.S. Global Change Research Program, reflecting an increase of \$14.7 million which directly supports NOAA's seasonal-to-interannual activities.

In terms of decadal-to-centennial climate change, we will continue research designed to provide the scientific basis for making informed decisions on the control of greenhouse gases through the U.S. Global Change Research Program, and on implementation of the Clean Air Act amendments of 1990 through the new Health of the Atmosphere Program. To address these changes, we request \$94.1 million for the decadal-to-centennial initiative.

Underlying all of our operating programs are the capital assets without which our observations, assessments, predictions, and stewardship responsibilities would be impossible. In fiscal year 1995, \$41 million are required to maintain our capital assets. This is comprised of \$23.1 million for fleet replacement and modernization for critical maintenance, repair, and chartering, and \$17.9 million for environmental compliance and facilities.

In terms of our cost-cutting issues, we have to pursue technology and education programs that cross agency lines, tap external resources, expertise, and experience. We will share host responsibilities with NASA for the Vice President's interagency global learning and observation to benefit the environment, or GLOBE Program, a program which will enhance global environmental awareness, and increase scientific understanding of the Earth by working

with a worldwide network of schools to collect environmental observations. This program focuses on environmental education and scientific data collection, and our budget contains a \$7 million increase for that program.

In terms of civilian technology, we will promote effective distribution of data and information from our large environmental data holdings through information technologies built on the new national information infrastructure [NII]. Our proposal to significantly increase participation in the President's High Performance Computing and Communication [HPCC] Program epitomizes the fundamental Federal role in high performance computing and communications. We are requesting \$15.5 million for this program in fiscal year 1995.

Finally, as you can see, not all programs are increasing. Our fiscal year 1995 policies, as well as resource allocations, reflect a need to focus on those high priority programs and investments with the highest potential return. In some cases, the reductions reflect planned decreases for major construction and acquisition programs. Other reductions include activities that do not reflect NOAA's mission, do not directly advance our strategic plan goals, were of limited duration, or have been completed.

NOAA is also proposing to increase fee revenues by \$88 million to be deposited into a special fund of the Treasury to help offset the cost of administering our living marine resources and marine sanctuary programs. The specific details of these fees are currently being developed in close consultation with NOAA's constituent communities and the Congress. Our guiding principle in developing these fees include the idea that the fees be reasonable and not represent an onerous burden, and that the revenues generated by the fees be used to benefit the people paying the fees.

For fiscal year 1995, we propose to largely finance our programs most directly related to mapping and charting and marine navigational safety from the harbor maintenance trust fund receipts. Authorizing legislation will be transmitted to permit this change in financing from the "Operations, research, and facilities" account. The amount proposed to be derived from the trust fund is \$45.5 million.

Senator DOMENICI. What was that statement, that last part?

Dr. BAKER. Financing our programs directly related to mapping and charting from the harbor maintenance trust fund receipts.

Senator DOMENICI. \$45 million.

Dr. BAKER. \$45 million.

Senator DOMENICI. Thank you.

Dr. BAKER. We believe we have a 1995 budget that is robust. It reflects an equitable balance between investments in the future and proposed savings necessary to control Government-wide spending. In this process, as in the development of the strategic plan, we took into consideration many factors, including the concerns of key supporters such as those of the committee. I look forward to working with you and other committee members in the coming months in developing a fiscal year 1995 budget for NOAA.

#### PREPARED STATEMENT

Mr. Chairman, thank you for the opportunity to present this brief summary. I look forward to your comments.

[The statement follows:]

STATEMENT OF DR. D. JAMES BAKER

Mr. Chairman and members of the Committee, I am pleased and honored to appear before you today in support of the fiscal year 1995 budget request for the National Oceanic and Atmospheric Administration (NOAA). I am accompanied today by Doug Hall, Assistant Secretary; Diana Josephson, Deputy Under Secretary; Kathy Sullivan, Chief Scientist; and Andrew Moxam, our Comptroller. Also, NOAA's program managers are present.

We have restructured NOAA's budget—from the previous, organization-based structure—to the current structure which mirrors the Strategic Plan. This new structure allows us for the first time to directly link NOAA's programs with agency-wide goals and objectives. It is revitalizing our agency by giving us the flexibility to apply our resources across traditional NOAA program elements, allowing us to implement more cost-effective techniques and to become more responsive to users.

The Department of Commerce has organized its fiscal year 1995 budget request into five themes or baskets. The NOAA programs are included in two of these baskets, one on Environmental Stewardship and Assessment and the other on Civilian Technology. The formulation process for NOAA's budget was both highly interactive and positive. NOAA was engaged fully with the Department of Commerce and the Office of Management and Budget in discussing all of the issues, and received good support throughout the process. NOAA's fiscal year 1995 budget reflects the strong environmental concerns and priorities (sustainable development and ecosystem health) of the current Administration.

NOAA's total fiscal year 1995 budget request is \$1.964 billion, basically unchanged from our fiscal year 1994 appropriation. But, it does include significant changes which will advance our environmental research and resource management responsibilities and support the President's high priority agenda items. This is reflected in an increase from fiscal year 1994 of 8.3 percent, or \$138 million in the Operations, Research and Facilities accounts for a total of \$1.897 billion.

This Administration was elected with a mandate and plans to address a wide range of economic and environmental problems facing the Nation. NOAA has developed action plans to address many of these problems and better link our environmental stewardship, assessment and prediction capabilities with objectives for ensuring sustainable development and economic growth. I urge you to consider supporting strongly the President's fiscal year 1995 budget request for NOAA.

Our highest priority continues to be the maintenance of NOAA base programs. Without an adequate base, we cannot maintain our levels of service to the public let alone move into the electronic information age. Beyond that, we must continue to make progress in advancing our forecast and prediction capabilities. The economic benefits of improved environmental information are compelling; we can't afford not to make this kind of investment for the future. In addition, consistent with this Administration's policies, we continue to apply a comprehensive ecosystem approach to our environmental problems.

I will now summarize NOAA's fiscal year 1995 budget initiatives which are reflected in our Strategic Plan. NOAA's fiscal year 1995 Environmental Stewardship programs initiatives include: Building Sustainable U.S. Fisheries, Recovering Protected Species, Coastal Ecosystems Health, and Modernizing Navigation and Positioning Services.

ENVIRONMENTAL STEWARDSHIP

As Federal trustee for living marine resources and their habitats, NOAA oversees both coastal economic health and coastal ecosystem health. NOAA's Environmental Stewardship investment strategy includes the following program initiatives:

**Building Sustainable Fisheries.**—\$259 million is requested to refocus policies and fishery management planning on increased scientific information, rather than letting controversy and confusion drive decision-making. Increases of \$40.6 million are proposed to maintain ongoing operations and to develop fishery management plans to address more effectively the desperate situation facing the Nation's fisheries. We need to address and resolve uncontrolled fishery access, overcapitalization, overfishing, and a host of other resource management issues. We will continue financial support for the eight Regional Fishery Management Councils, and increase funding for the Fishery Reinvestment Program to assist the fishing industry during periods of stock rebuilding. This will help address the short-term economic dislocations that can be associated with stock rebuilding efforts.

**Recovering Protected Species.**—We also are continuing our efforts to improve our stewardship of protected marine species. We need to be proactive rather than reac-

tive in our response to conflicts between these species and the users of other living marine resources. We need to be able to maintain this fragile balance in our Nation's oceans.

These are complex issues. For fiscal year 1995, NOAA requests a total of \$50.6 million, a net increase of \$19.2 million over the fiscal year 1995 base, to continue to fulfill the statutory responsibilities of the Endangered Species Act and the Marine Mammal Protection Act. NOAA will increase efforts to assess the status of marine mammal populations and trends, reduce interactions between human activities and protected species, and develop and oversee implementation of conservation and recovery plans. The goal is to devise a strategy and approach to reduce listings of species as threatened or endangered.

**Coastal Ecosystems Health.**—A healthy coastal ecosystem requires that economic development is managed to maintain biodiversity and long-term productivity from sustained use. A total of \$167.8 million (including \$7.8 million from the Coastal Zone Management Fund) is requested for fiscal year 1995 to continue efforts to support and guide the management of coastal watersheds, including non-point pollution control, protection of marine sanctuaries, and habitat conservation. NOAA's new Center for Coastal Ecosystem Health, now being established, is an important element in this equation. Full funding for CZMA grants is included in our request. In fiscal year 1995, we have requested increases of \$3 million for improved management of the Nation's marine sanctuaries, and \$2.4 million for habitat conservation.

**Modernize Navigation and Positioning Services.**—Proposed funding for Modernization of Navigation and Positioning Services is \$76.4 million. Navigation and positioning technologies are evolving rapidly. NOAA will move toward use of a new automated system capable of producing traditional paper nautical charts as well as electronic chart products. New survey technology providing full bottom coverage in shallow water will be introduced in the NOAA fleet. NOAA will begin to apply these systems to improve marine navigational safety, enhance economic competition and provide information for protection of sensitive coastal marine environments.

#### ENVIRONMENTAL ASSESSMENT AND PREDICTION

NOAA will improve its capability to observe, understand, and predict the environment by enhancing short-term warning and forecast products and services, producing forecasts of global climate variability, and providing science-based advice to policy-makers to manage the global environment. NOAA's Environmental Assessment and Prediction investment strategy includes the following program initiatives: Advancing Short-Term Warning and Forecast Services, Implementing Seasonal-to-Interannual Climate Forecasts, and Predicting and Assessing Decadal-to-Centennial Climate Change.

**Advance Short-Term Warning and Forecast Services.**—NOAA will significantly improve short-term warning and forecast services for the entire environment: atmosphere, water resources, coasts, oceans and space. Funds are requested to maintain ongoing forecast and warning operations, including continuing the modernization and restructuring of the National Weather Service. In the case of the NEXRAD and ASOS procurements and new office construction, NOAA is on the downside of the funding profile. We will also continue the development of the AWIPS system, and the current series of GOES and Polar satellites. I might add that the first in the new series of GOES spacecraft is being launched today.

**Implement Seasonal-to-Interannual Climate Forecasts.**—We will take significant steps toward implementing reliable seasonal-to-interannual climate forecasts to guide economic planning. NOAA aims to provide, in conjunction with its international partners, reliable one-year lead-time forecasts of global climate variability, especially the El Niño-Southern Oscillation (ENSO). The dramatic changes in precipitation and surface temperature distribution that accompany ENSO and other short-term climatic events can have devastating economic effects. These forecasts will be designed to foster regional and world-wide strategic responses to mitigate economic losses and social disruption.

In fiscal year 1995, NOAA requests a total of \$94.4 million for the Seasonal and Interannual Climate initiative. Included in this initiative is \$38.6 million for the President's U.S. Global Change Research Program (USGCRP), reflecting an increase of \$14.7 million, which directly supports NOAA's seasonal-to-interannual activities.

**Predict and Assess Decadal-to-Centennial Climate Change.**—It is also critical to address decadal-to-centennial changes in the global environment. In fiscal year 1995, NOAA will continue research designed to provide Government and industry the scientific basis for making informed decisions on both the control of greenhouse gases through USGCRP and implementation of the Clean Air Act Amendments of 1990, through the new Health of the Atmosphere program. To address these long-

term changes, NOAA requests \$94.1 million for the Decadal-to-Centennial initiative. Of this amount, \$45.4 million, an increase of \$6.3 million, for USGCRP directly supports prediction of decadal-to-centennial climate change.

*Infrastructure.*—Underlying all of NOAA's operating programs are the capital assets without which our observations, assessments, predictions and stewardship responsibilities would be impossible, e.g., NOAA's fleet of ships and aircraft and NOAA's buildings and laboratories. Maintaining these assets is critical if NOAA is to carry out its programs efficiently, effectively and reliably. In fiscal year 1995, \$41 million are required to maintain our capital assets. This is comprised of \$23.1 million for Fleet Replacement and Modernization, and \$17.9 million for Environmental Compliance and Facilities.

#### CROSS-CUT

NOAA efforts to provide leadership in environmental stewardship and environmental prediction and assessment cannot succeed without the successful pursuit of technology and education programs that cross agency lines to tap external resources, expertise, and experience. NOAA's scientific expertise will contribute to National and global environmental observing and adaptation programs.

In fiscal year 1995, NOAA will share host responsibilities with NASA for the Vice-President's Interagency Global Learning and Observations to Benefit the Environment (GLOBE) Program. As stated by the President in his State of the Union address, GLOBE will enhance global environmental awareness and increase scientific understanding of the Earth by working with the worldwide network of schools to collect environmental observations. Our budget contains a \$7 million increase for this exciting program.

#### CIVILIAN TECHNOLOGY

In fiscal year 1995, there is one NOAA program which contributes to the Department of Commerce Civilian Technology basket—Environmental Information. NOAA will promote effective distribution of data and information from its unique and massive environmental data holdings through information technologies built on the new National Information Infrastructure.

NOAA's proposal to significantly increase participation in the President's High Performance Computing and Communications (HPCC) Program epitomizes the fundamental Federal role in HPCC. Federal efforts, including those of NOAA, are critical components of the bridge from the advanced research supported by the National Science Foundation and other computer science research agencies, to widespread deployment and support in U.S. industry partnerships. This program was funded at \$1 million in fiscal year 1994 and we are requesting \$15.5 million in fiscal year 1995 for these critical efforts.

Finally, not all programs are increasing. Our fiscal year 1995 policies, as well as resource allocations reflect the need to focus on those high-priority programs and investments with the greatest potential return. In some cases, the reductions reflect planned decreases for major construction and acquisition programs. Other reductions include activities that do not reflect NOAA's mission, do not directly advance our Strategic Plan goals, were of limited duration, or were completed. Included in these decreases are the Administrative and Personnel savings (\$15,700,000) pursuant to the President's Executive Order.

For fiscal year 1995, the amount of funding spent on conducting research will increase by approximately 13 percent (\$50 million). Much of this research is incorporated in the major increase proposed in our fisheries programs and in the Climate and Global Change program. One program of significant potential, Health of the Atmosphere (with an increase of \$2.5 million), will provide scientific data needed by policymakers on how to implement Phase 2 of the Clean Air Act Amendments of 1990, particularly in rural and forested areas where current controls will not be effective. Phase 2 implementation is estimated to cost the public between \$10 and \$40 billion per year and we believe our research can help policymakers select more cost-effective solutions.

NOAA also is proposing to increase fee revenues (\$88 million), to be deposited into a special fund in the Treasury to help offset the costs of administering our living marine resources and marine sanctuary programs. The specific details of these fees are being developed in close consultation with NOAA's constituent communities and the Congress. Our guiding principles in developing these fees include the idea that the fees be reasonable and not represent an onerous burden and that revenues generated by the fees be used to benefit the people paying the fees.

For fiscal year 1995, NOAA proposes largely to finance its programs most directly related to mapping and charting, and marine navigational safety from Harbor Main-

tenance Trust Fund receipts. Authorizing legislation will be transmitted to permit this change in financing for the Operations, Research and Facilities account. The amount proposed to be derived from the trust fund is \$45.5 million.

NOAA's fiscal year 1995 budget request reflects an equitable balance between investments in the future and proposed savings necessary to control Government-wide spending. In this process, as in the development of the strategic plan, we took into consideration many factors, including the concerns of key supporters, such as those of the Committee. I look forward to working with you and the other Committee members in the coming months to develop a robust fiscal year 1995 budget for NOAA.

Mr. Chairman, thank you for providing me with the opportunity to present NOAA's fiscal year 1995 Budget. I will be happy to answer any questions the Committee may have.

#### FEEs

Senator HOLLINGS. Dr. Baker, I note that when we had in February a Washington Post article listing Federal programs for elimination; there were some 45 approved programs by the Congress in the National Oceanic and Atmospheric Administration slated for termination, and I notice that you also come along in this budget with an \$88 million fisheries fee yet to be developed.

I would like to get right to the point. I can see us in a markup now, and—wait a minute, who is this fellow, this administrator who just eliminates all the ocean and fishery programs and then wants to come around and put on user fees? Fees do not come very easily, and these programs that are proposed for elimination come about after all kinds of negotiations and discussions. They come from a lot of marine scientists, universities, and everything else.

I can see Senator Hatfield, not present here at this time, but his salmon hatcheries fishing out there in Oregon proposed for termination, and others up there in the Northeast. Specifically, how are we going to get that fee? If you had to put the fee on in the next 10 minutes, what fee would it be? Who pays and how much?

Dr. BAKER. Senator Hollings, we are currently preparing a proposal to submit to you for fees, and I think that will be ready in another week or so, a couple of weeks.

Mr. HALL. It is in the final stages of the approval process.

Senator HOLLINGS. Well, I do not want the approved fee. Give me two or three options. What are the things in mind? That is what we are trying to find out.

Dr. BAKER. Well, we have looked at a variety of possibilities for fees, which range from a tax imposed on the first sale of fisheries, all the way up to a variety of other kinds of fees that might be proposed.

We are currently discussing these different options with the fishing community, the commercial fishermen, the recreational fishermen, and with other constituents to see if we can come up with a proposal that does make some sense.

As I said, we propose to give you a proposal on this very shortly, and we have committed to the administration to doing that, and we would plan, then, to work with you on how that might be implemented.

Senator HOLLINGS. Well, of course, the proper implementation then would go to the authorizing committee. I can hear the authorizing committee members now saying, wait a minute, you wait and do not even bring the matter up, Mr. Chairman, until you get over

to your appropriations role, and then you stick it in, and we have not had any hearings, we never heard of it, and the fishermen called and they object to it and everything. What gives?

That is a sort of disorderly approach to it, I would suggest, so I would not get it too enthused, or count on \$88 million, when you are starting at the appropriations and not the authorization level, and the word "fee" itself, which is "tax."

Senator Domenici and I have been trying to pay bills for years now in this budget process, so we are not adverse to paying the bills, and we understand the need, but I think the purpose of these hearings is to get some understanding between the administration and the Congress itself of certain policy, and to come back around and everything else, I think it is obvious that is going to be very difficult.

Let me ask, since I note—and that is good, the atmospheric end of it, again and again, page after page of your particular statement, the emphasis is on the atmosphere, and, of course, that is the National Oceans and Atmospheric Administration. There is nothing wrong with that, except I have been having a difficult time getting NOAA back into the oceans, and having worked at the Joint Oceanographic Institute yourself, a founder of the Oceanographic Society, can you help us get the "O" in NOAA, the oceans in NOAA, emphasize a little bit of that?

Dr. BAKER. Senator, I am glad you mentioned that question, because, as you know, this is a subject I am personally very interested in. Having tried to organize an academic oceanographic community for the last 15 years, I know the difficulties of trying to pull together all of this. I think the atmospheric community is one that has been very well organized.

Senator HOLLINGS. They are well organized.

Dr. BAKER. I am hoping, partly through a strategic plan and partly through an outreach of it which we are now doing to industry and to the academic community from NOAA, that will be able to support and provide programs that will, in fact, put some real strength into those terms, putting the "O" back in NOAA.

#### GOES

Senator HOLLINGS. On the geostationary satellite, the budget includes \$3½ million for a follow-on to GOES-NEXT. What will those funds be used for, and tell us about the improvements. What real improvements? I notice a diverse opinion about the worthiness.

I happen to think it is going to be particularly valuable, but from your position as Administrator, tell us about that GOES satellite, and then what the follow-on program is.

Dr. BAKER. Well, there are two parts. One is, the GOES satellite provides us with a great improvement both in the images, the direct pictures that we get, and in the soundings, that is, the temperature as a function of the depth through the atmosphere. Assuming that it works—knock on wood—we are going to have it launched tomorrow.

We will have greatly improved soundings and images that will go into making a direct improvement in the weather forecasts that we have. The \$3.5 million that we have in our budget is, in fact,

for the next round of beginning studies for improvements in those instruments.

#### FLEET AND AIRCRAFT

Senator HOLLINGS. Very good.

You talk about investment and infrastructure. Your request for fleet modernization goes from the appropriated level of \$77 million down to \$23 million. In other words, you just finance the minimum maintenance, and do not continue to rebuild the fleet.

I have been trying to rebuild that NOAA fleet, and we put in a hurricane reconnaissance aircraft as you well know. Let me ask first about that aircraft. Why is it taking so long to get moving? We got the money for you back in October, and you are still, I take it, trying just to put out a request for proposal here in April. Why have we not moved along quickly on that?

You know how things are. If you do not move along any faster than that, someone will take the money from you and use it for something else.

Dr. BAKER. I thank you, Senator Hollings, for that help on the aircraft. It is an important addition to our infrastructure and to our hurricane reconnaissance. We expect to have the request for proposal for procurement to be out on May 18 next month, and to fully obligate funds by September 16. We had to go through specification development to support a full competition process, and we have sufficient funds in the 1994 appropriation to get the aircraft equipped for hurricane reconnaissance.

Senator HOLLINGS. And about the ships themselves going from \$77.7 million down to \$23 million, what is your comment? You say you are emphasizing infrastructure, but you are cutting back the investment in the fleet.

Dr. BAKER. Well, in fiscal year 1994 we were appropriated funds for a new ship which was an important step, I think, in fleet modernization. At the same time, when I came on board as Administrator, I wanted to have a careful review of the fleet replacement and modernization plan. I wanted us to have a plan that we could all agree to and that would be cost effective. That, in fact, as we looked at using our limited Federal dollars, we had a plan that carefully took into account how we would use both available assets from DOD and would properly use new designs.

For example, the old plan currently has 10 designs for 18 ships. It may well be that a fewer number of designs for that number of ships could be used. I asked the National Academy of Sciences to do a very quick turnaround report, give us a report in 6 months on how we were doing with our plan. That report is now due out next week, I understand. It will be delivered to you next week.

And, as I understand it from the board, they are suggesting that we relook at the plan to make sure that we are—in fact we have the requirements in hand and that we know what we are doing with respect to available assets and how we would, in fact, use new assets. So I think that our deferral for 1 year of spending additional funds on the present plan will be backed up by this report which was just done by the academy. I am fully committed to having a strong and modernized fleet, but I think we also have to

make sure that we have a plan where our requirements are understood and we have a cost-effective program that makes sense.

#### NORTHEAST FISHERIES

Senator HOLLINGS. But what about the plan on fisheries? You get up in the Northeast and you turn on your TV, and you see the Secretary runs up there and gives \$30 million to regenerate the fisheries to the very people who depleted them. We on this committee can tell—Senator Hatfield and I have been working on this for a long time, and you can see just overfishing, overfishing. So now we see that the fishermen have worked themselves out of business, so we have sent them money, and you have got problems up there in the Northwest with salmon fisheries. In fact, you have got restrictions in Oregon and Washington State on salmon fishing.

What is the plan on fisheries? You see, I know what the problem is. Every Secretary that comes on board gets all enthused. He is going to run a business, he is going to do this on trade, we are going to have this done and that done. It is all business down there, what they call the business roundtable. Have you ever been to a meeting of the business roundtable?

Dr. BAKER. No; I have not.

Senator HOLLINGS. See, one-half of the budget never gets to the business roundtable and a fellow who comes on like Malcolm Baldrige, lassoing steers out West and everything like that.

Senator DOMENICI. Southwest, Southwest.

Senator HOLLINGS. Southwest. He says why is it we get all this money going to the oceans and fisheries, and I never heard of this thing? And they get nettled about it and give it to somebody and nothing happens. Now we have got somebody who understands this thing. Dr. Baker, you understand the oceans and you understand the fisheries. I think we ought to start getting back into the oceans.

And I will yield here, but I would like a comment on the fisheries plans and so forth, if we could have some kind of plan for fisheries rather than depleting them and treating them in an emergency fashion.

Dr. BAKER. Senator, as you know, we have a serious national crisis which is not limited to the Northeast. We have a problem in the Northeast, the Southeast, the gulf, and we have a big problem in the Pacific Northwest. These are problems that have been identified for a long time. They have been difficult to address, and we are trying to address all of those problems as well as we can.

As you know, we finally have an agreement in the Northeast to reduce fishing effort by 50 percent over 5 years, and we were able to come up with some economic assistance funding this year. We have been working very hard on the salmon recovery plan for the Pacific Northwest, and we have come, I think, to a workable agreement in the Northwest where it looks as if we can save many of the stocks. That is currently under heavy discussion at the moment.

We have a Secretary in Ron Brown who is very interested and is trying to be helpful on these issues. He strongly supported the increase of new funding in fisheries that we had this year. And I think we have an opportunity with the new Secretary to make some real progress on fisheries.

## DISASTER FUNDS TO THE NORTHEAST

Senator HOLLINGS. Let us suppose I am from the Northwest and I say you are going up to the Northeast, Mr. Secretary and giving them \$30 million from funds for the Los Angeles earthquake. Where is our \$30 million here for the Northwest. What is your response?

Dr. BAKER. Well, the response is that I think the Secretary is hearing that question at the moment, and I think the administration is trying to understand how it can respond in a positive way to that question.

Senator HOLLINGS. They got that earthquake money in California. Maybe if we get another earthquake we can get the money for the Northwest fisheries.

Senator DOMENICI. Mr. Chairman, I want to yield to Mark Hatfield, who wants to talk about fisheries. And we are right there, but I just want to make a point on your last remark. Frankly, I do not think the U.S. Senate understands that the President of the United States declared an emergency in terms of the Northeast fisheries, when we never voted on a disaster of that type. We voted money in excess of the budget for a disaster that befell California.

I imagine there is some kind of crisis—I am sorry I do not know more about it—in the Northeast fisheries, and we have an emergency declaration taking disaster money out of the California earthquake funds and putting it into fisheries stabilization and enhancement—those are my own words, I guess; as I read this, I think that is what it is—a program for fishing in the Northeast. I believe this is going a little far and, frankly, I hope the administration takes notice that this might not work very many times, taking money out of a specific disaster and using it for something like this.

Let me tell you why it is important to us. We work very hard to control the budget and we have caps that do work, but the one thing that exceeds the caps is an emergency. I mean you just get that outside of them. So, for instance, if you save \$6 billion in appropriations to get to the caps and you spend \$6 billion for a disaster, the net effect is you have not done anything, right?

Senator HOLLINGS. Right.

Senator DOMENICI. So this \$30 million comes out of that kind of pot when essentially it should not. It should come out of the operating budget of NOAA and fisheries, and if we have not provided sufficiently, they ought to come in for a supplemental with ordinary debate. So I just indicate—you are not the one that did that, I assume. I think it has to do with the Secretary of Commerce and the President. But I think it should be on the record that this is not a very good way to do business.

Mark, I will yield now, and I will take my time after you.

## NORTHWEST FISHERIES

Senator HATFIELD. I just have a few questions. I thank Senator Domenici for yielding.

Mr. Chairman, I would like to pick up a little bit on the Northwest fisheries issue, because I am reading here to see how much this administration is really committed.

This is the bottom line, Dr. Baker. It is not what the studies are, not what you are planning to do, not the consensus you are reaching out for. Here is the bottom line. Federal programs listed for elimination, Columbia River hatcheries. That's the Mitchell Act. The VENTS Program, one of the most exciting—talking about ocean matters, one of the most exciting ocean floor activities going on, zilch. The National Coastal Research and Development Institute, zilch. Columbia River smolt, zilch. Columbia River facility, zilch. Newport Marine Science Center, zilch. That does not look like much of a commitment to me to either handle the future, let alone the present.

Now, I want to pick up on this matter of the Northeast. Certainly they have problems. I am a sympathizer to their problem and I am for fish, whether it is from the Northeast or the Northwest. But as you said, Dr. Baker, you are responding to a disaster because in the next 5 to 7 years they have to reduce their take by some 50 percent.

Let me give you some statistics in comparison to groundfish and scallops in the Northeast. In 1991 the coho catch on the Oregon coast, representing the largest of the salmon fisheries of that coast, we took 828,000 fish in that year, 1 year later 306,000, 1 year later 146,000. In 3 years we had an 82 percent drop.

Now. Not 5, 7 years from now, now. We have had that over the last 3 years. I would like to have a disaster as easy as the Northeast in comparison to what we are facing in the Northwest. We have just now canceled the 1994 coho catch. None, no fishing. We have four salmon listed on the endangered species, four.

Now, the main part of the total program that we have to look at in the Mitchell Act funds is the hatcheries. That accounts for 25 percent of the take of a salmon, the hatchery program. Zilch, no funding. It does not sound like much of a commitment to me that this administration has. And, again, I do not want to take anything away from the Northeast. I just want to emphasize that I wish we had disaster as easily handled, perhaps, as they have. I think ours is greater, as the situation exists now.

Now, would you tell me, Dr. Baker, because I have a letter from one of your top people, Rollie Schmitten, dated April 1, that the 1995 budget proposes a change in funding sources for the Columbia River hatcheries from the National Marine Fisheries Service to the Bonneville Power Administration. Is that true?

Dr. BAKER. That is our proposal, yes, sir.

Senator HATFIELD. And what form did it take?

Dr. BAKER. We had planned to shift the funding source of the Columbia River hatcheries from the National Marine Fisheries Service to the Bonneville Power so that Bonneville Power would fund that activity. But, as you know, we have learned that that is not going to be possible, at least this year as far as we can see, and so we are now relooking at that possibility for fiscal year 1996.

And I can tell you that, as Secretary Brown said in his hearing, we are committed to finding the funds, working with your staff and with you, and working within the administration to find funding for the Columbia River hatcheries. We were simply trying to look for a way to change the funding source. If that is not going to work, we will find some other way to do it. But we will commit to that.

Senator HATFIELD. Well let me back up for just 1 minute. We were talking about transfer. Let me quote from the Deputy Administrator, Bonneville Power Administration: "There is no bill in the pipeline, nothing on paper or in appendix somewhere, that suggests this obligation is being transferred to us."

Who did you discuss it with at Bonneville Power?

Dr. BAKER. We did discuss it. Let me ask Doug. Who did we discuss that with?

Mr. HALL. The Office of Management and Budget discussed it with the budget examiner. They were handling this through OMB, and so OMB took a response.

Senator HATFIELD. You never discussed it with the Bonneville Power Administration.

Mr. HALL. We had discussions with Randy Larkin about that, but I think, given the lateness of time at this point, that this is not going to be a likelihood, that it can be done in this fiscal year.

Senator HATFIELD. Well, I have to say it sounds like an idea that was maybe passed around in your agency, but I do not know of any paper, Bonneville Power does not know of any paper, knows no proposals. They do not even know if a proposal was ever seriously being proposed, because they have absolutely no knowledge of this, and I have talked to Bonneville Power all through the agency.

And I cannot understand on April 1—on April 1, Mr. Schmitten of NMFS, says, in effect, to the Northwest Power Council that: "The 1995 budget proposes a changing in funding source for the Columbia River hatcheries from the National Marine Fisheries Service to the Bonneville Power Administration." How could he make such a statement in light of the lack of what you have been able to produce as evidence this morning this ever took place as more than just a discussion in your agency?

Dr. BAKER. Well, I can say that it was our intention to make that proposal. We have not been able to follow through on it, but I can say we are committed to finding the money for the Columbia River hatcheries.

Senator HATFIELD. How are you going to find it?

Dr. BAKER. Well, that is what we are trying to work out within the administration right now, but we do have agreement with the administration and OMB that we will find the money somewhere.

Mr. HALL. There is a recognition on the part of the Office of Management and Budget that this issue needs to be addressed, and I think that is recognized at the highest levels.

Senator HATFIELD. You know, I just have to say that over the years that I have been here, this has every earmark of sham budget. I can remember when Senator Magnuson was the chairman of our full committee. Senator Hollings recalls very vividly, administration after administration would come out with zero funding for Mitchell acts because they knew Senator Magnuson would put it back in, because he was chairing the committee and no Senator from the Northwest is going to let the fisheries be decimated and destroyed by the budgeting game plan that has been entered into by administrations before yours.

But having gone through that for so many years, I have to say to you it has every earmark of the same old game plan of previous administrations. Twelve years of previous administrations did not

fund the Mitchell Act in their budget because they knew we would do it. One exception, the last year of the Bush administration. And we were supposed to have a change in this administration. You are back in the same old business, from my perspective.

And especially at a time when we have had \$30 million provided as a disaster for the Northeast. We have \$515 million in the discretionary fund of that earthquake disaster. Maybe you can get some disaster relief out of that.

Dr. BAKER. I do not know about that.

Senator HATFIELD. I will not take any more time. I just have to say that I do not know I am supposed to say to my constituents. I have worked with this administration on natural resources particularly, and this is, to me, a disaster, just in the proposal of the budget, especially when you do not have any evidence you really were planning any other thing except to be caught up by the committee. If I sound a little confused or a little bit disgusted, I am both.

Thank you, Mr. Chairman.

Senator HOLLINGS. Senator Domenici.

#### CLIMATE AND GLOBAL CHANGE

Senator DOMENICI. First, let me ask with reference to global warming and climate change, are you one of the lead agencies in that endeavor on behalf of our country?

Dr. BAKER. Yes, sir; we are.

Senator DOMENICI. Would you happen to know, or would your staff know—and if you do not, could you submit it for the record—where all of the global warming research money is within the Federal Government? I would assume you work with others as well. Could you summarize for our committee in a written answer how much money is going to global warming, or maybe it is global cooling now, I am not sure which? But could you do that for us?

Dr. BAKER. Yes, sir; we will do that. The new National Science and Technology Council is, in fact, doing a budget crosscut of these various environmental issues and, in fact, has that information, so we can get that to you.

[The information follows:]

The U.S. Global Change Research Program (USGCRP) under the National Science and Technology Council oversees the national research effort looking the integrated effects of long term changes in the atmosphere ocean and land surface, with the global warming issue as one of the principal drivers. The funding in fiscal year 1994 and fiscal year 1995 for the USGCRP by agency is shown below:

#### AGENCY FUNDING FOR THE USGCRP

(In millions of dollars)

Agency	Fiscal year—	
	1994	1995
Department of Commerce/National Oceanic and Atmospheric Administration .....	63.0	84.0
Department of Defense .....	5.7	6.4
Department of Energy .....	93.1	126.1
Department of Health and Human Services .....	1.2	25.5
Department of the Interior .....	33.4	31.0

## AGENCY FUNDING FOR THE USGCRP—Continued

(In millions of dollars)

Agency	Fiscal year—	
	1994	1995
Environmental Protection Agency .....	27.4	31.8
National Aeronautics and Space Administration .....	1,021.5	1,235.8
National Science Foundation .....	141.9	207.5
Smithsonian Institution .....	7.3	7.3
Tennessee Valley Authority .....	.3	1.0
Department of Agriculture .....	49.1	58.4
Total .....	1,443.9	1,814.8

Descriptions of the specific projects as well as other crosscuts of the distribution of the funding for the U.S. Global Change Research Program is found in "Our Changing Planet: A Supplement to the President's fiscal year 1995 Budget."

Senator DOMENICI. I am not objecting, Mr. Chairman, to money for climate change. I am just very concerned that if we do not do it in an integrated manner in our budget, that everybody comes along in their funding area and says let us put more in this program, and I think we ought to have it someplace. Maybe our committee could at least be a rational center point for how much is going where.

## COLUMBIA RIVER STUDY

Senator HATFIELD. Would the Senator yield for a moment?

Mr. Chairman, if you recall, last year in our conference we asked this same agency to provide us with a study showing what the program was on hatchery and Mitchell Act funds, and we asked it to be December 1, 1993, and it still is not here.

Senator HOLLINGS. If you can get that easily for us.

Mr. SCHMITTEN. That has been completed and has been submitted. It should be up before Congress immediately.

Senator HOLLINGS. You can get it up for us here.

Senator HATFIELD. It has not been submitted to us.

Dr. BAKER. Rollie, do you want to make that a little louder, what you said?

Mr. SCHMITTEN. Mr. Chairman, I am Rollie Schmitt, the Assistant Administrator for Fisheries and head of the National Marine Fisheries Service. The report is now completed and we certainly can have it up through the system and expect to have it delivered to Congress immediately. In fact, I am most surprised it is not here right now.

Senator DOMENICI. Mr. Chairman, let me proceed a little bit on fishing fees, but from a different approach.

Mr. Baker, I think you have been asked generally what fees would be raised and how would they be collected, and I gather you do not know yet. Is that true? What fees would be raised and how they would be collected? You are not there yet?

Dr. BAKER. Let me ask Doug Hall, who has been involved in putting this together, to answer that question.

Mr. HALL. Senator, by way of background, there was a working group that was formed that involved congressional staff members

and some representatives of industry, some environmental groups. It has been meeting since last fall, and we have developed a proposal. As Senator Hollings so clearly stated, this is a very controversial issue. I do not want to imply that this working group in any way endorses this final proposal, because it is a matter of trying to collect the mechanisms that would be the least objectionable.

So we are aware of how controversial that would be. The elements would include a broad-based fee placed on the point of first sale. So it would be the first point after the fishermen catch the fish, so it would not be placed directly on the fishermen. It would be equally applied across the board, based on value.

It would also have fees that would deal with special management issues, special management costs, for which the authorizing committee has already given us that ability. We would have a special fee to deal with the new management systems, the individual transferable quotas, and individual fishery quotas.

So this is designed to be across the board and would meet the goals that you have there. We anticipate the specific percentages to be very small, less than 1 percent; but we would like to get that finalized by OMB, so we do not have a specific figure out there now that we might have to, in some way, modify.

Senator DOMENICI. Well, let me just tell you what I see as a second problem. I agree with the problems that the Senator and our chairman said about this fee, about these fees, but let me give you another one. If these user fees, which I believe amount to \$88 million as proposed in this budget—if they were to be matched up with the enhancements in the program from which the money is taken, those programs only go up \$50 million.

So what we are doing is we are taking \$88 million in user fees out of fisheries and sanctuaries, and only apparently spending \$50 million of it in those programs, which means a goodly portion is going to either the general Treasury of the United States or the general budget of NOAA. And, frankly, I believe the more that people know about that, the less apt they are to pass it. And I just give you that because it is of great concern to me, and I think it would almost knock out the efficacy of your request for the full \$88 million.

Second, if the subcommittee switched these fees from a Treasury receipt to an offsetting collection, are you confident that the \$88 million could be raised and used as a direct-funding mechanism for NOAA's programs?

Mr. HALL. That would be a very difficult proposition in fiscal year 1995 because of the startup time that you would have.

Senator DOMENICI. Right.

Mr. HALL. So I think we are pursuing a dual track in which we are going through the appropriation process and the authorizing process at the same time. But I think, Senator, you are right, that would be a difficult proposition for fiscal year 1995. By fiscal year 1996, once we have 1 year to get it up and running, I think that can be done.

#### EXON AMENDMENT

Senator DOMENICI. Mr. Chairman, I think the effect of the Exon amendment, which is now part of the budget resolution, most of

the debate, which I guess I have caused to move in this direction, had to do with the big cuts we were going to have in defense. But, frankly, there is a very good possibility that if that amendment remains intact—and, again, this is the will of the Senate, but we might have to have an outlay freeze in NOAA.

And I just wonder if you might tell us, for the record, how you would assess and what would the list of programs be that would be impacted by a freeze on NOAA's outlays at the 1994 level. Could you do that for the record for us so we would know realistically what that might look like?

Dr. BAKER. Yes, sir.

[The information follows:]

If NOAA was required to freeze outlays in fiscal year 1995, using the figure \$100 million included above, the comparative loss of Budget Authority in terms of the Operations Research and Facilities outlay rate of 57 percent would be in excess of \$176 million. The remaining available "new" Budget Authority would not even fund the increases required to maintain the pace of the NWS Modernization.

This loss of "new" Budget Authority would: require NOAA to stretch out the modernization effort, increasing the cumulative costs; force a gap in both Polar and GOES Satellite coverage; leave NOAA unable to meet mandated living marine resource statutes; leave the newly designated Marine Sanctuaries unfunded or reduce funding to all Sanctuaries; reduce NOAA involvement in the Government-wide Global Change and High Performance Computing and Communications Initiatives; eliminate funding for GLOBE and Health of the Atmosphere; and, result in reduced operations and services due to shortfalls in some base programs.

The impact of such a cut to budget authority, would require NOAA to rethink its entire budget submission, including the possibility of eliminating a significant number of additional programs. Given the list provided above, I would welcome the Committee's input on this issue.

#### GOES CONTINGENCY

Senator DOMENICI. If the launch of this new satellite fails or if the satellite itself does not operate properly, what impact would this have on our ability to predict weather, since we are supposed to have two of them up and we only have one and one is a European satellite? Could you just generally tell us what might happen if it does not work?

Dr. BAKER. Well, if the satellite which we are planning to launch tomorrow morning does not work for whatever reason, we will have to rely on existing satellites, of which the United States operates one that is about 7 years old, and the European satellite that is about 6 or 7 years old. And then we will have to simply rely on those until the next launch, which is next year.

Senator DOMENICI. So my next question was going to be about a contingency plan. Your contingency plan is you have to put another one up. Its soonest practical time would be 1 year.

Dr. BAKER. Its soonest practical time is 1 year, and we also have plans for additional observations that would develop in case one of the existing satellites failed. We have two old satellites, both of which seem to be in good shape at the moment, and hopefully would last for another 5 years or so. But as they get older, the probability of failure goes up.

Senator DOMENICI. I have a number of other questions, but since we have so many Senators here, what I thought I might do, Mr. Chairman, is hold them and see if we have time for a second round for me. If not, I will put them in the record.

Senator HOLLINGS. Very good.

Senator Stevens.

Senator STEVENS. Thank you, Mr. Chairman.

Dr. Baker, we want you to know, at least I want you to know that these are not meant to be antagonistic questions. I am just trying to get to the bottom of some things here, and I really hope you will bear with me.

The overall Department of Commerce budget increases by \$659 million in outlays for this year, yet NOAA's budget decreases by \$124 million. Now, many of those reductions have already been spoken to. I too am concerned about them. I am concerned about the wind profilers, for instance, and I know my friend from Nebraska is. We fought to get a wind profiler into the Anchorage area after the volcanic eruptions that took place there.

We almost lost one plane coming in, and we did have our major airfield closed for several days. The Department of Defense had to move their planes out of the area because of the dust that was there, but mainly it was a problem of finding out where this volcanic dust was going, and the wind profiler gave us that assistance. And we just had a temporary one there. Now I understand that that is to be cut out.

There are some other things here, the Senator from Oregon has gone into them, about which I have got to ask some very pointed questions. Were you given some amounts that you had to come up with for the budget? I assume that was the case, just a directive to cut so much from your area.

Dr. BAKER. Well, we were given an opportunity to submit a budget. As you know, the process is we submit a budget to the Department of Commerce, we negotiate with the Department, then the Department submits a budget to OMB and then numbers come back to us.

Senator STEVENS. That is what I was asking, Doctor, whether you made the cuts or whether someone told you to make the cuts. I know your background. We have worked with you before. I do not quite see you cutting money for Columbia River fishery or for the Newport Marine Science Center. Those things have been pretty close to your heart too, as well as our friend from Oregon.

Now, how do these reductions get in here is what I want to know? Is this a priority list that the Department made or is it yours? Now, I frankly want to know.

Dr. BAKER. Well, the administration—we put in our proposal and the budget that we got back was less than what we had proposed, and we had to live within the numbers that we had. We felt that by using our strategic plan, we could identify the highest priority items, and that those that did not make it into the highest priority are those things that were not funded. I will not say this is an exact process, but on the whole we felt that what came back was a budget, given the overall constraints on the Federal budget, that we could live with.

Senator STEVENS. Well, you are not alone. I note, Mr. Chairman, that in the Department of Education for impact aid, payments for military dependents, the cut is \$123 million. And if my memory does fail me, every President since Harry Truman has made the recommendation that that money be cut, and every Congress since then has restored it, but this year it may not be so.

And that is what my problem is with your budget request, because this year it may not be so. We cannot get that money back in there without taking it out somewhere else. And I do not know, frankly, where to take it from. Let me talk to you about another thing—the fees. And if you have any comment on what I am saying, please interrupt me. The priorities that were established to meet the budgetary directives that came out of OMB and from the Department are understandable, everybody wants to cut the deficit. But it seems like the highest priority items for members of this committee are on that list of reductions.

One of them, for instance, is the Beluga Whale Committee, \$200,000. That committee was put together to try and work with the environmental community to prevent my eskimo friends from taking too many beluga whales. And the fishery observer training, \$200,000. We are obligated under U.S. law, as you note, to provide observers. They only serve for about a year or two, and then you have to train some more to comply with your regulations. And those two items have to go back in there, as far as I am concerned. But I just sort of think that this is a harsh game we are playing right now.

Let me ask you about the fisheries fees. My understanding of section 303(d) of the Magnuson Act is that it gives you authority to collect fees under management plans, but that it specifically spells out that these fees shall not exceed administrative costs. Now, we have a fee proposal coming to us this year that is going to be based on value.

Sixty percent of the value of fish caught under the jurisdiction of the United States comes from Alaska, so this may not be so much a national fee, as a fee on Alaska. I think 60 percent is conservative. As a matter of fact, with the collapse of fisheries in the Pacific Northwest and the collapse of the fisheries in New England and the unfortunate results down in the gulf, I think we will be well over 75 percent of the quantity of fish to be caught this year.

We are going to pay that fee. And if we pay it—we are going to have even more difficulty competing with foreign imports. You know, we have a lot of imported pen-raised salmon coming in from Norway. In fact, we have all kinds of imports as the world's second largest importer of seafood—it is sort of like the oil import thing. We try to tax domestic oil, and the more we tax it, the less domestic oil production we have, whereas the foreign oil comes in here and it does not pay a tax at all.

Is this fee going to apply to all fish that are consumed in the United States or just to domestically produced fish?

Dr. BAKER. The current plan is it will be all fish.

Mr. HALL. Yes, sir, it would be all fish, equally between imports and domestic.

Senator STEVENS. How are you going to get to imports?

Mr. HALL. This would be on the first sale of fish, whether it is harvested and sold through a wholesaler or whether it was imported and sold through a distributor organization.

Senator STEVENS. You are going to submit specific legislation on that?

Mr. HALL. Yes; and we understand that the provision that you cited of the Magnuson Act would not provide the flexibility to do

this. We are submitting this as part of an administration bill to amend the Magnuson Act.

Senator STEVENS. It would apply equally to catfish farms?

Mr. HALL. This is only for marine resources.

Senator STEVENS. It does not apply to fresh water or upland fish?

Mr. HALL. No; it does not and would not. Those species are covered through other legislation.

Senator STEVENS. Well, perhaps it is a little fairer than I thought.

Last—

Senator DOMENICI. Senator Stevens, would you yield for just a moment.

Senator STEVENS. I would be happy to do that.

#### TERMINATIONS

Senator DOMENICI. I think we ought to make the record kind of clear here with reference to terminations of programs which three Senators have already raised in terms of NOAA and terminations. And I believe part of the goal and objective, just to tell you how I feel about the budget, was to come up with a lot of terminations. And so this was part of what the President could take and say he was reducing the budget.

And I think the terminations were 115, as publicized. And, interestingly enough, Senator Stevens, 43 of those are within NOAA's budget, 43 of 115, and you cited a few there. But I think we should say that that does not mean that programs across the board in Government were either frozen or cut. As a matter of fact, there are new programs and dramatic increases that amount to about \$8.6 to \$10 billion, Mr. Chairman. In other words, programs went up—let's use a round number and say 10 billion dollars' worth—while this 115 is referred to across the land as budget restraint.

I think the opposite of my friend from Alaska. I think some of these 115 are going to be put back, and the administration expected them to be put back, because I am not at all sure the appropriators intend to give the President all of his increases. So what we are going to have is, when we are all finished, we are going to be the ones that did not terminate programs.

Senator STEVENS. Well, I would say to the Senator, if you can get them all back in without increasing the budget—

Senator DOMENICI. We will not get them all back.

Senator STEVENS. I am going to make you the Wizard of Oz. [Laughter.]

Senator DOMENICI. Well, we will come close. Congress will come close in my opinion. Not all of them, but a whole bunch of them.

#### NAUTICAL CHARTS

Senator STEVENS. Mr. Chairman, I have just got two more things, if I may. One is on nautical charts. We have been told that NOAA will cancel about 125 charts this year. I understand that charts cost money. But one of the ways that the charts to be canceled have been selected is by where the number of charts that have been purchased is low.

And if my information is correct, one-third of those charts to be cut cover my State. We do happen to have one-half the coastline

of the United States and we have only 600,000 people, so by definition we are not going to be buying many charts. But of all the places to cancel charts, we have fewer navigation aids per mile or per person or whatever you want, than anywhere else in the country.

Now, those charts are absolutely essential to safety in my area. We have a higher number of deaths in our fishing industry than any other industry in the country. These charts are absolutely essential to Alaskans, even though, in terms of numbers, we purchase very few. I have just got to plead with you, not ask you, to look at that and change that standard.

The number of sales of the charts have nothing to do with the number of lives saved. As a matter of fact, if you have got enough demand in somewhere like New York, you will have a private company that wants to reproduce the charts and sell them anyway. But up our way there is not enough demand, so no one could possibly make money, and I think the standard is wrong. I would urge you to change that.

#### ARCTIC CONTAMINATION

Second, coming to your agency is the report on "Arctic Contamination, Research, and Assessment" prepared by the Interagency Arctic Research Policy Committee, IARPC. You are familiar with that?

Dr. BAKER. Yes, sir.

Senator STEVENS. For 2 years now the Congress, at my request, has made available \$10 million of Defense money to study the disposition—really, to identify where waste was disposed of and to study the effects of atomic waste by the former Soviet Union. That money is coming to an end. I have just left a meeting with Secretary Perry, and Dr. Carter and his staff told me that the subject was raised by Russia in Secretary Perry's recent trip to Russia.

The responsibility in our national system for studying the affect of contamination on the oceans off our shore is under your agency. This recommendation would request additional funds to expand your ability to deal with the impact, if any, of this contamination as it comes into our waters.

Are you familiar with that study and the request that is coming to you from IARPC?

Dr. BAKER. Yes, I am, Senator.

Senator STEVENS. Do you have money in the budget to deal with the immediate request for studies in the North Pacific to see to what extent, if any, the contamination which has reached us has had?

Dr. BAKER. At the moment we do not. Our funding of that activity has depended on reimbursable funds from DOD and from the National Science Foundation and if, in fact, they do not have the funding, then we would not be able to do that.

Senator STEVENS. Well, they have the funding to continue locating where the waste was disposed of by the Soviets, and we are tracking the migration of that waste as it comes out of the Ob and the Yangtze River, and into the Kara Sea, and we have just had a preliminary report from the Office of Naval Research that there is none of it in our waters yet, but it is moving.

Now, I would like to make sure that you are prepared, once it reaches your jurisdiction, to keep track of the impact, if any, which comes from this nuclear waste?

The Soviets have disposed of several nuclear reactors, Mr. Chairman, in the North Pacific. It had fairly low radioactivity, but it still has been put into the North Pacific and into the Sea of Japan, and I am told there is another vessel right there off Vladivostok waiting to be dumped right now. So we have got to get on top of this.

I am not certain that we are, from talking to Dr. Gablakov, who is Mr. Yeltsin's assistant over there in Russia. They think that the waste is going in the other direction, it is going into the European sector rather than the Pacific, but we need to know.

Your own reports show that of all the fishery zones in the world the one that is surviving and is not overfished or hurt by environmental damage is the North Pacific. I think we ought to put up a fence around the North Pacific and make sure it does not happen to us. So I would like to have you tell us what you need, if anything, to get ready to follow the requests made of you by the inter-agency initiative put together to address the risks from Arctic contamination?

Dr. BAKER. We will get a report to you, Senator.

[The information follows:]

NOAA participated in the Interagency Arctic Research Policy Committee (IARPC) in the development of a government-wide proposal called the Arctic Contamination Research and Assessment Program. The proposal addresses a number of possible areas of new work which NOAA, the Department of the Interior, the Department of Energy, the Environmental Protection Agency, and the National Science Foundation could address. The proposal has identified approximately \$15 million of projects which NOAA could undertake.

Senator STEVENS. Thank you very much.

Senator HOLLINGS. Very good, Senator Kerrey.

Senator KERREY. Mr. Chairman, in the interest of time, I have some questions I will just submit for the record. Particularly, you have a program called global learning, the GLOBE Program, that I am interested in. I would like to know what the requirements are for application or if you are intending to expand it, and a couple of other questions that ought to get answered.

#### NOAA'S IMPACT ON ECONOMY

But, Mr. Baker, if I could—Dr. Baker, excuse me. As I understand it, your request is approximately the same dollar terms as it was last year. I mean roughly \$2 billion, \$900 million, or something like that.

I have got to confess, I know Senator Stevens has one-half the coastline of the country, we have none.

Senator STEVENS. He has got a Navy, though.

Senator KERREY. We have a Navy, we do, but we have, unfortunately never fired a shot in anger.

The question will occur in Nebraska, what does NOAA do for our State. It seems that I am constantly being faced with that question, regardless of where the appropriation is. So I wanted to give you an opportunity to respond to that, because I do not see it in your testimony.

It seems to me as well, I must say, that the—and I am not talking about how much money is being spent; I am really looking at the economic multiplier of the NOAA investment. Increasingly, as I face problems at home, whether it is crime, welfare, or out-of-wedlock births, or various social problems we face in both the inter-city and in a rural area, that the common denominator solution is a job, the common denominator solution as well is a job that gives people some sense that they have got some dignity and that they feel good about themselves, able to support their family, that sort of thing.

And I point out, as I do increasingly in Appropriations Committee hearings, that this year we will—with no expansion of benefits, with no expansion of eligibility, we are going to spend \$30 billion more in Federal health care programs, with no debate, in Medicaid and Medicare. We will spend another \$20 billion additional on retirement, a bit more controversial than health care. But \$50 billion total will go out in transfer payments.

The Census Department, over our recess, reported that the per capita expenditures from the Federal Government increased about \$400 from roughly \$4,500 to \$4,700, and almost all of that is a consequence of growth in the mandated entitlement programs which, again, we rarely debate. There is generally good social purpose for those transfers: trying to support income, trying to provide health care for people that otherwise would not have it. But except for the consumption, you really cannot make an argument that it is creating jobs.

And as I look at the NOAA budget—and I would like to give you an opportunity to respond to it—there are some cuts that I do not like, there are some things that I would like to see reordered, but as I see the NOAA budget, I see \$2 billion that, it seems to me, is awfully important for the development of the U.S. economy.

In other words, if we took that \$2 billion and did not spend it. Let us say we decided that we were going to take that \$2 billion and we are going to put it in the President's health care plan, as an alternative. And I do not think that is going to happen, but let us just say we did it, what would be the impact, the economic impact in this country if we took that \$2 billion and took it to zero dollars?

Dr. BAKER. Let me give you two examples, Senator, just quickly. One major part of NOAA's activities is providing warnings for public life and safety by the Weather Service. You have many Weather Service offices in Nebraska, and this direct impact of the weather forecasts has a major impact on every State, including your own, especially as a farm State.

We have in NOAA, in fact, developed a capability, which we are now starting to apply, of providing long-range forecasts, that is 6-month forecasts for farmers on how much rainfall there will be so they can decide what kind of crops to grow. This could have an enormous impact on agriculture and it is the kind of thing which we are currently developing.

One other example is a program which we have worked on for a number of years. It is looking at air pollution, clean air, and the impacts in rural areas and farm areas of what is called rural ozone, a serious air pollution issue. And we are doing research on this. It

is part of the Clean Air Act. But those two areas have a direct impact on the people of your State, public life and safety and air pollution.

Senator KERREY. The question that I am trying to get specifically is we are going to pull \$2 billion out of the U.S. economy to fund your budget, roughly 80 percent directly in taxes and 20 percent with Treasury bond sales, and have you ever calculated the economic multiplier of that \$2 billion? Have you ever said here is what this adds to the U.S. economy?

Dr. BAKER. If I can give you one example—we have a lot of different programs and we have to do a different multiplier for different programs, but \$1.2 billion of our budget is spent on weather warnings and forecasts, and the economic multiplier is about 7 to 1 for the money that we spend, and we have very detailed economic analysis of that fact, as we have worked it out through the modernization of the National Weather Service. We have similar modifiers on other parts of our programs, but that is one that I can give you a report on today.

#### BUDGET REQUIREMENTS

Senator KERREY. Well, I say that because, again, for people out there who are trying to figure out what it is that we are doing in Washington, which is a rather substantial number, again one of the things that I detect is kind of a common message, left to right, is that they would like us to do things that would help their kids find jobs, help them find jobs. And I am just not certain that we have done a very good job of explaining—in the midst of, you know, the typical debates about how we are going to spend money, I do not think we have done a very good job of explaining the relationship of this kind of appropriation to the economy.

And I think we have set ourselves up. And we may—as I understand it, the administration has got to find \$12 billion to fund GATT. And the Senator from New Mexico already mentioned the Exon amendment, which has reduced the caps. I mean, it seems to me that we are—unless we address—this is me perhaps singing a song that people are getting tired of hearing, but unless we address this entitlement side, what we are going to do is we are going to be arguing over this account versus that account, and both of which would be good for the U.S. economy.

And I am troubled, frankly, by the debate already, just in this particular item, but more broadly on every Appropriations Committee I have gone to. I mean I can see what is happening. We are going to be cutting those things that will unquestionably contribute to the U.S. economy, while, without debate, funding things that might make good social policy sense, might be urgently needed. Indeed, as we see with health care, the demand for health care services is even greater than what we are currently funding, and we are funding a \$30 billion increase already.

I have got a \$30 billion increase in Federal health care funding, but with demand to do more. Indeed, it could be argued promises to do more, and at the time that I am looking at accounts that will answer the question at home, what are you doing to create a job, that I am cutting.

Senator HOLLINGS. Dr. Baker, just a comment. I never forget, they tore up the Congress last year at this time, March, April, May over a \$16 billion stimulus bill. This was going to wreck the whole economy and everything else at that time. And then 2 days before we left in November we passed \$18 billion, by a voice vote, for the RTC, Resolution Trust Corporation.

Now, the expenditure of this, since we are talking about \$2 billion, I would like to talk about the \$200 billion, the \$400 billion, and the \$500 billion. They can find money for pork, S&L's, \$250 billion in one State down there in Texas. So if we are going to compare programs, seven-tenths of the Earth's surface is in the oceans, and if the rationale is if a State doesn't have any ocean landings, let us get rid of the U.S. Navy. I guess that would be the logic of it.

I expect they sell fresh fish in Omaha Steak Houses, because I have been to Omaha and eaten it; it's a very nice place, delightful there. We know the projections, as you have indicated, on the floods and everything else of that kind. There are plenty of places, as the distinguished Senator points out, to be saving money.

My list begins with the tremendous waste that we can easily find with things like RTC. I talked with the best financial experts. They said take your \$15 billion hit and get out. That was not the case at all. No, no. They wanted to continue, and I voted against spending that \$500 billion without hardly any debate.

Now what you have, in essence, is a real problem. And Leon Panetta knows better when he eliminates. They talk about the number of programs he eliminates. He actually eliminates about \$80 million—it is \$124 million, but there is not repeating procurement of an aircraft for \$43 million in there, so when you eliminate \$80 million there and then you are looking for \$88 million in fisheries fees which you had not even submitted to the authorizing committee, what you do in your budget submission here to the Appropriations subcommittee is giving us a \$170 million headache.

And I would suggest, since you are so good in the oceans and the atmosphere and a recognized leader—and I can tell you, this committee is supporting you and they are supporting your programs, but you can see we are having a hard time supporting this budget. You have got to get a budget officer that is more on top of it and just tell him that you cannot be rolled in this fashion by OMB, \$88 million in fisheries fees? You have got 435 House members that are not going to vote for fees.

Senator DOMENICI. Yes.

Senator HOLLINGS. They can see the little 20-second sound bit, that fellow who voted for fees. You have killed your budget over on the House side. They are all running for reelection this year. You think here in May, June, July, in the summer, just when they are gearing up trying to get reelected through primaries and general elections, they are going to vote to increase taxes? I do not mind. I am speaking objectively, because I recommended a value-added tax and they ran against me as high-tax Hollings. I had a good time.

But I know what happens and you have got to know what happens out there. You cannot come up here with a \$170 million headache for the Appropriations Committee because that hurts us.

By the way, I have got a group of persons—and I am going to yield to Senator Domenici, but with respect to the coastal zone management grants, your budget recommends a freeze. We have always had national support for quite a few years, because we maintain a minimum grant and a maximum grant for States. You still support the minimum and maximum grant approach, is that not right?

Dr. BAKER. Yes; that is right. We had proposed an adjustable maximum grant level so that we could adjust that according to various States. Basically, we support that general notion of minimum and maximum grants, yes, Senator.

Senator HOLLINGS. Senator Domenici.

#### BUDGET ENVIRONMENT

Senator DOMENICI. Well, Mr. Chairman, I am reluctant not to state a couple of things in the record that follow on Senator Kerrey's remarks.

First of all, everybody is becoming more and more familiar with the fact that the appropriated accounts such as NOAA get more and more squeezed because the budget continues to grow out of all proportion because of some entitlement programs. Most of the numbers Senator Kerrey cited are correct. But I think the interesting thing is that the only way anybody knows to get the deficit under control and get down to zero, zero budget deficit in good times, is to control the health care costs.

Almost everybody said it. The President said it 100 times in his campaign. The problem or the brunt of it, Mr. Chairman, is that most of the health care plans do not save any money, right?

Senator HOLLINGS. No; they cost more.

Senator DOMENICI. So all the savings that might accrue to a reformed system wherein the health care costs of the Government are growing at four times inflation, 10 or 11 percent growth in a 3-percent inflation which will break the bank, we are going to save all that money hypothetically in a reform mode, but we are going to spend it all on new programs. So essentially we are not helping a bit in terms of taking the pressure off of accounts like NOAA's and other discretionary accounts that are spending money on programs that people really need and that are probably very good for the country.

Having made that point, I think I stated something about the 115 program terminations, of which 43 are in this budget, that I want to clarify. The total amount of savings in all the terminated programs, Mr. Chairman, is about \$2.5 billion, so nobody ought to think that is a huge, huge savings. But that is good, you save money. On the other hand, we increase programs to the tune of \$9 billion. So the point I was making a while ago that it is nice to run around and say we have terminated programs, but the issue is how much have we effectively saved or cut the budget by, and the answer is none, because we then find room to spend far more than the terminated programs on other things.

I believe, in the shuffle, Congress is not going to outspend the President. I do not want to leave that impression when I said most of these are going back in. The thing is we are going to be bound by the same path he was, but we may not fund \$8.5 billion, \$9 bil-

lion in new programs, we might find that some of these 43 just cannot be terminated.

And for anybody that is doubtful about that, you are a very very forthright witness. You sort of remind me of the Bureau of Indian Affairs people who came before the Indian Affairs Committee when the President slaughtered the Indian health budget. They ended up eventually saying we did not do it. They eventually said we did not even want it. Now, you did not say that today, but it is pretty obvious that many of these things were thrust upon you, and most people expect them not to occur.

Having said that, let me ask you about one major thing that really bothers me, and that is the "National Performance Review." There are savings proposed in the "National Performance Review" that we ought to all sit up and take notice of. They are great. And one is \$300 million estimated savings from the consolidation of your weather satellite activities with the Defense Department's satellite programs on weather. But, frankly, I would just like to know, because that is the kind of savings we ought to be interested in from NOAA's budget.

Senator HOLLINGS. And he is an expert on it.

Senator DOMENICI. What are the staff recommendations and are these savings accurate and are we really moving in that regard?

Dr. BAKER. Senator, I am glad you asked that question. This has been a very high priority for us in trying to save money, to consolidate the military weather satellite programs together with the NOAA weather satellite programs. We are not consolidating our weather service, but it is the weather satellite programs.

Senator DOMENICI. Right, weather satellite programs.

Dr. BAKER. We are currently running four satellites with a large amount of duplication in effort, and it was my view before I came to NOAA, and the Vice President shared that view when he chaired the "National Performance Review," that we could save a large amount of funds if we could, in fact, converge these two systems.

We had an interagency effort going between NOAA and the Department of Defense and the President's Office of Science and Technology Policy to come to a convergence plan. That plan will be delivered to you at the end of this month. We are very close to completing the plan. The savings—over a period of 10 years are on the order of hundreds of millions of dollars. I cannot give you an exact number, but that order of magnitude is not an unreasonable number. And we are very much on track. We will take the number of U.S. satellites from four down to two, and that is a major savings, while still providing the same kinds of weather information that we have today.

Senator HOLLINGS. NOAA is not going to get the savings? They go to Defense?

Senator DOMENICI. I was just going to say that.

Dr. BAKER. Most of the savings will go to Defense because we have already made the assumption in our budget that we would only have one satellite, and U.S. instruments aboard a European satellite. However, we are trying to work the budget through our expert Comptroller here, to see if some of the savings, in fact, could occur to the converged program, of which we would be a part. And

if that is the case, we would see some savings too. This has not yet been settled, but we are working on it.

SYSTEMS PROGRAM OFFICE [SPO]

Senator DOMENICI. Let me ask about this issue—my staff tells me—I wasn't here when this occurred—that several years ago we had a massive cost overrun in the geostationary satellite procurement. And apparently you all, in appropriate response, set up some kind of an office that would handle this. I understand the head of that office recently left you to go join the FAA. Are we going to continue to use a system program office for these major procurements? Has it been working in terms of overruns and making sure we can economize?

Dr. BAKER. Well, Senator, thank you. Thanks to Senator Hollings, this issue of the problems with GOES was recognized. A Systems Program Office was established in NOAA. It has been a very strong office and it will continue to be a strong office. Bob Valone, who was the Director, has been invited to take over the advanced automation program at the FAA, a program that has had a lot of difficulty, and he was recruited very heavily by the FAA to come into that program. He did work with the FAA.

Senator DOMENICI. They need him.

Dr. BAKER. We are looking for a very strong manager. It is our view that the Systems Program Office is a very important part of NOAA because it puts a firewall between the acquisitions of major systems and the development of requirements. And although we are making some minor changes in that organization, that system of a strong Systems Program Office with a firewall between acquisitions and requirements definition is one that we feel very strongly about in our management activity.

NEXRAD

Senator DOMENICI. My last question has to do with Nexrad, the next generation suggest weather radar. I understand that the Weather Service is set to install this new system in my home city of Albuquerque in the next month or so. This is important for New Mexico as a whole, because we have never had a civilian weather radar system and Albuquerque has been relying on the FAA radar, which is certainly not designed to do the kinds of things that yours are and that Nexrad will do.

What is the status of the installation of a Nexrad radar network and what is the status of the funding being provided by the other partners in that development?

Dr. BAKER. I can tell you I think we are going to finish that up by fiscal year 1996, is the plan over the entire United States, but I would have to ask Lou Boezi from the Weather Service to comment on the other specifics.

Mr. BOEZI. Yes; the radar is scheduled for May this year, and the overall agency funding is generally on track. However, within the FAA, the installation of certain radars in Alaska and Hawaii is being delayed. They have not acquired the radars.

Senator DOMENICI. OK, and the funding for the Air Force and the FAA is on track?

Mr. BOEZI. Overall, yes. The Air Force is right on schedule, but the FAA has a significant budget shortfall.

Senator DOMENICI. Mr. Chairman, I may submit two or three more. I thank you for the time.

Senator HOLLINGS. I am delighted that you mentioned that. You do not have any oceans, and yet you have got tremendous interest in it.

Senator DOMENICI. I am not against the oceans either. I mean, we hardly have a river. But my first success at adopting a statute had to do with those States that do have rivers. I said they ought to pay a part of the Corps of Engineers cost for all those dams. So the New Mexicans did not object at all, since we do not have any rivers.

Senator HOLLINGS. Wonderful, wonderful.

Dr. BAKER. Senator Hollings.

Senator HOLLINGS. Yes, sir.

Dr. BAKER. Excuse me, Senator. We would love to have you come to the opening of that radar in Albuquerque.

Senator DOMENICI. You invite me, I will be there.

#### ADDITIONAL COMMITTEE QUESTIONS

Senator HOLLINGS. Thank you very much, Dr. Baker, and your associates. We will have some questions submitted for the record and we are going to move on now for the technology section. Thank you very much.

Dr. BAKER. I hope I have a positive report for you tomorrow on the GOES.

Senator HOLLINGS. I hope so too.

[Pause.]

[The following questions were not asked at the hearing, but were submitted to the Administration for response subsequent to the hearing:]

#### QUESTIONS SUBMITTED BY SENATOR ERNEST F. HOLLINGS

##### DATA MANAGEMENT

*Question.* NOAA will spend over \$2 billion during this decade on new radars and other observing systems to modernize the nation's weather warning and forecast systems. These systems, particularly the NEXRAD radars, will produce enormous amounts of data which could be used to improve our understanding of threats like tornadoes and to save lives. However, as your recent report indicates, NOAA currently does not have the capacity to save that data and store it. For example, I understand that NEXRAD radars were in operation during the recent southeast tornadoes but none were equipped with recorders to save the information collected.

What additional NOAA capacity would be required to record and store NEXRAD data?

*Answer.* NOAA has assessed the trade-offs and determined that the most cost-effective means of storing NEXRAD data is on high-density, low cost media (magnetic tapes using helical scan technology). The hardware for these systems is relatively inexpensive, however, an archive organized for efficient retrieval will require expertise and resources beyond basic tape recording. This will facilitate research and more quickly yield reliable answers to difficult environmental questions.

*Question.* What are your plans for acquiring that capacity and what financial and personnel resources would be required?

*Answer.* NOAA recognizes the value of NEXRAD data both to improve current algorithms to recognize weather phenomena, and as a research tool to improve understanding and prediction of severe events. Our requests are for the minimum consistent with prudent data management. Full recording of NEXRAD data is not required for WSR-88D system certification. This means that archival systems will be in-

stalled as soon as possible, but usually after radar system installation. The current transitional database system at the National Climatic Data Center will be saturated when enough NEXRAD systems are on-line to generate 300 tapes per month, i.e., when 33 NEXRAD systems are providing a continuous data stream. Recurring data management costs for maintaining basic archival and retrieval systems is approximately \$2 million per year.

#### NOAA BUDGET STRUCTURE

*Question.* Your budget request represents a significant departure for this year's appropriation tables and past budget requests. The Appropriation always has been provided along organizational lines—so much for the National Weather Service and so much for the National Marine Fisheries Service. Your approach creates new program categories and does not follow organizational lines. Also, specific line items are eliminated for your justification tables—for both line items you are proposing to zero out as well as those you are proposing to continue.

There is likely to be opposition from members to providing this much change and flexibility. So, please give me your best arguments on why the committee should follow your new format when we mark-up the appropriation bill this year.

*Answer.* The Strategic Plan is the first comprehensive attempt to unify NOAA programs toward agency-wide goals and objectives. The Plan is our guide for the present and our map to the future, and, it allows NOAA to address the public's needs more effectively. The Strategic Plan is performance based, rather than organization based. NOAA's base program capabilities and proposed future-year efforts now are structured around four major areas: (1) Environmental Stewardship; (2) Environmental Assessment and Prediction; (3) Cross-Cut Programs; and (4) Infrastructure Requirements.

By developing our Strategic Plan, NOAA hopes that it has helped Congress recognize the cooperation and partnerships that exist among the various Line Offices (LO's) within NOAA in order to address agency-wide goals and objectives. These partnerships are not easily distinguishable in the traditional LO structure. The Strategic Planning structure will allow the Congress to oversee and support all facets of a program's performance. For example, the Strategic Planning Structure allows for Congressional support on all parts (LO contributions) of the "Coastal Ecosystems Health" program, including programs in Line Offices not generally associated with the National Ocean Service (i.e., Data Management [NESDIS] and Habitat Conservation [NMFS]).

It should be noted that NOAA currently has no plans to reorganize its LO's into the Strategic Plan structure. We have restructured our complex budget structure to mirror NOAA's strategic plan to allow discussion of budget requests in terms of program performance now and in the future.

#### FAA CAUSING DELAYS/COSTS IN WEATHER SERVICE

*Question.* My staff tells me that the Federal Aviation Administration (FAA) may be delaying your National Weather Service's modernization and causing a shortfall in NOAA's budget. FAA is not deploying and certifying Automated Surface Observing System (ASOS) and requiring NOAA personnel to remain at small airports. This keeps NOAA Weather Service Personnel from being re-deployed to activate new NEXRAD radars.

Is that the case? What is the personnel impact on NOAA from FAA's delays? What is the budget impact?

*Answer.* Potential delays in NWS modernization and resultant budget shortfalls stem from a lack of agreement with the FAA on requirements for human augmentation and backup of the Automated Surface Observing System (ASOS), rather than the deployment status of FAA sponsored ASOS's.

NWS-sponsored ASOS's are being deployed at current NWS offices, mostly at airports, that have surface observation responsibility. Before NWS personnel can be transferred from these old offices to staff the new NEXRAD offices, NOAA regulations require the establishment of criteria for the completion of automation certifications at these old offices to ensure there will be no degradation of services.

Until a firm agreement can be reached with the FAA on ASOS augmentation and backup requirements, automation criteria cannot be finalized. Further delays in obtaining this agreement could delay these staff releases and increase costs. The magnitude of the problem is quite large and could have a significant impact on NWS operating expenses and headcount. NOAA and FAA senior management are actively working to resolve this issue in a timely manner.

*Question.* The Transportation Appropriations bill cut \$10 million from the ASOS program while this Subcommittee fully funded its share of the tri-agency program. What is the programmatic impact of this reduction in Transportation (FAA) funds?

*Answer.* The programmatic impact of this reduction is significant. As a result of the reduction in funding from FAA, the ASOS Program Office is currently negotiating with the ASOS production contractor to restructure the remaining portion of the contract to accommodate the revised FAA funding profile for the ASOS program. Contract negotiations are expected to be completed by the end of May. FAA has stated that any increased costs incurred by NOAA due to the restructuring will be absorbed by the FAA.

#### POLAR-SATELLITE CONVERGENCE

*Question.* The Vice President's National Performance Review calls for convergence of NOAA and Air Force polar-orbiting weather satellites. Savings are estimated at \$300 million.

What is the status of this Satellite Convergence effort? In your opinion, is it feasible to converge the two agency programs?

*Answer.* The Report on Polar Convergence prepared by the Office of Technology Policy, was unveiled at a White House on May 10. Plans were announced to converge DOD's Defense Meteorological Satellite Program (DMSP) of the Department of Defense and the NOAA Polar-orbiting Operational Environmental Satellite (POES) system into a single operational environmental satellite system. In addition the converged operational program will incorporate appropriate aspects of NASA's Earth Observing System technologies.

Under the directive, NOAA was named lead agency for integrating the converged system, for satellite operations, and for the interface with national and international civilian users. DOD will have responsibility for the program's acquisitions, command and control, and launch and systems integration. NASA will be responsible for facilitating the development and incorporation of new cost-effective technologies that will enhance the capabilities of the converged system. The joint office to manage the system is to be set up by October, although the two operations will not be completely combined until 2004.

The new system is expected to reduce duplication of efforts in meeting common requirements while satisfying the unique requirements of the civil and national security communities. Convergence is expected to save an estimated \$300 million by the year 2000, through elimination of dual planning and development programs, with additional savings of more than \$1 billion in the following 10 to 15 years. The converged system will continue the open distribution of environmental data and accommodate international cooperation.

In addition, the European space Earth observation partners were invited to explore incorporating the European METOP polar satellite series into the converged system, assuming U.S. mission requirements can be met.

*Question.* How will convergence of NOAA and Defense polar satellites impact NOAA's plan to have European Space Agency fly a second polar-orbiting satellite?

*Answer.* The converged system architecture is designed to not impact the planned European satellite. All agencies recognize the cost effectiveness of an international cooperative effort.

*Question.* The National Performance Review talks about NASA being involved in the convergence effort. What is NASA's role?

*Answer.* The converged polar program will integrate the capabilities of NOAA, NASA and DOD. NASA will primarily bring their space technology expertise to the program to ensure a continuing transition of new technology to the converged program.

*Question.* How many times has convergence been proposed in the past? What will make it work this time while it failed in the past?

*Answer.* Convergence of DOD's DMSP and NOAA's TIROS program has been studied eight times since 1972. Each time the respective study concluded that convergence was technically feasible, but mission differences precluded complete convergence. However, the studies did state full convergence could be accomplished at the next major redesign of the satellites. For the first time since 1972, both agencies are developing a new generation of satellites. Since the polar mission is essential to both agencies, it is now in their best interest to make convergence a reality.

#### LANDSAT

*Question.* I've read that NOAA wants to get back in the land remote sensing business. Your predecessors worked pretty hard to get out of the LANDSAT business,

and as you know, NOAA has had a pretty hard time affording its meteorological satellites.

What are the Administration's plans on LANDSAT? What would NOAA's role be?

Answer. The Administration is committed to maintaining the continuity of Landsat-type data and reducing the risk of a data gap after the demise of the current satellites. Under the program announced at the White House on May 10, 1994, NOAA would operate the Landsat satellites, NASA would design a new generation of spacecraft to compete with foreign satellites that provide similar data, and the Department of the Interior would maintain the national archive of Landsat data.

Question. What are the estimated budget impacts? Would there be any impact in fiscal year 1995?

Answer. NOAA is not requesting any funding in fiscal year 1995 for Landsat 7 activities. We anticipate offsetting a portion of future operating costs through access fees from international Landsat ground stations and data sales revenues. However, legislation will be required to enable us to do so.

Question. What are your plans for the data for LANDSAT 4 and 5—the current satellites—after the contract with EOSAT Inc. expires on June 1?

Answer. The current contract between the Department of Commerce and EOSAT for the operation of Landsats 4 and 5 expires on July 16, 1994. EOSAT was to operate Landsat 6, at no cost to the Government. They are now operating the current satellites at no cost to the Government and recently received approval by the Landsat Program Management to continue operations beyond July 16, 1994.

#### NEXRAD TAXING

Question. We understand the NEXRAD Program has been confronted with both a "use tax" by certain state/local authorities on material used in performing a contract with the government and an "import duty" on certain radar parts manufactured in Canada. Can you give us a status on this situation? What is the potential financial impact for NOAA?

Answer. Use taxes: Currently, the State of South Dakota, Parish of St. Tammany, Louisiana, and the State of Tennessee have billed the Federal Government for "use taxes" on any material used in performing a contract with the government. In addition, numerous other states have expressed intent to bill NEXRAD general contractors for use taxes. We understand, however, the Department of Energy has been given an exemption by Congress for a "use tax" in the State of Tennessee.

Import duty: The U.S. Customs Service has sent notification to the NEXRAD prime contractor for payment of an import duty to NEXRAD radar parts manufactured in Canada, mainly NEXRAD transmitters. We understand the prime contractor has the potential legal right to pass this cost on to the government.

The financial impact of use taxes on all the NEXRAD radars could range as high as \$20 million, and the cost of the import duty could range as high as \$4 to \$5 million.

#### PROPOSED PROGRAM TERMINATIONS

Question. The President's Budget has highlighted 115 program terminations, of which 46 I believe are "small" NOAA Programs. For the record, for each program, please provide your best arguments for terminating these programs. Why should Congress agree to cease funding these programs?

Answer. The program terminations you are referring to are those that were listed in the Washington Post on February 4, 1994. The article misidentifies the following two of the 46 NOAA programs as "programs to be eliminated":

*National Acid Precipitation Assessment Program (NAPAP).*—NOAA is not terminating its support for this interagency (NOAA, the Department of Energy, and the Environmental Protection Agency) program. The fiscal year 1995 budget not only continues the critical research supporting NAPAP, but builds on it in the requested increase for the Health of the Atmosphere program.

*Aircraft Purchase, upgrades.*—Funds were provided in fiscal year 1994 specifically to purchase and equip a mid-size research aircraft to perform hurricane and severe storm forecasting and atmospheric research. Expiration of non-recurring program funding should not have been listed in the Washington Post article.

The remaining 44 terminations listed in the article are the result of hard choices necessitated by tight funding constraints and the reason(s) for their termination are listed below in the same order as Washington Post article.

*Fishing Vessel Obligation Guarantee (FVOG).*—Given the need to simultaneously reduce the Federal budget deficit and fund higher priority on-going programmatic needs, continued funding for the FVOG program could not be provided in fiscal year 1995.

*National Undersea Research Program (NURP).*—Although NURP is considered to be a good research program, it is of lower priority than other programs which support NOAA's primary mission.

*Columbia River Hatcheries.*—The fiscal year 1995 budget proposed to discontinue NOAA funding the operations and maintenance of the Columbia River hatcheries.

In light of the current salmon crisis in the Pacific Northwest, NOAA, within the fiscal year 1995 budget request of \$281 million for NMFS, is exploring opportunities to shift resources to continue operations of the Columbia River Hatcheries.

*Wind Profiler Demonstration Network (WPDN).*—This project was designed to demonstrate the effectiveness of the wind profilers in the prediction of weather and will be completed by the end of 1994. Based on the data gathered during its successful operation, NOAA will evaluate whether an "operational" system of wind profilers across the nation be initiated as part of an integrated upper air observation network. Since such a network will require a significant investment, NOAA needs to be sure that its benefits warrant the investment and, if it is implemented, that it is done in the most cost effective manner.

*Federal/State Weather Modification Grants.*—This type of cloud physics and precipitation research is not an integral part of NOAA's observation, warning and forecast responsibilities.

*Regional Climate Centers.*—The Climate Analysis Center, as a result of the fiscal year 1995 request, will be able to build on the resources and infrastructure already in place at the National Weather Service (NWS), make national long-lead forecasts of climatic conditions and unusually severe or prolonged conditions, and present this information to all interested parties with a stated measure of confidence. Funding for the Regional Climate Centers, which do not provide forecasting capabilities is lower in priority.

*Sea Grant—Zebra Mussel.*—To the extent that funding for zebra mussel research is needed, the peer reviewed competitive process of the Sea Grant program can fund these activities. A sufficient body of research is currently being undertaken. Numerous alternative sources of funding have developed for zebra mussel research, both from the private and public sectors. Also, many research projects funded through Sea Grant's zebra mussel program in fiscal year 1991-94 will continue to be active into fiscal year 1995. Finally, the Sea Grant zebra mussel outreach activities had high initial costs due to preparation of publications and other materials for distribution; however, ongoing activities can be supported within the base Sea Grant Marine Advisory Service Program.

*VENTS.*—NOAA is requesting to eliminate separate funding for the VENTS program. VENTS complements the National Science Foundation's RIDGE program, which is part of the U.S. Global Change Research Program. In order to better improve the linkage with USGCRP, RIDGE, and the university community, the VENTS program will compete for funding through NOAA's Climate and Global Change Program.

*Land Information System.*—Given the need to fund higher priority on-going and new programs, this regional program is not critical to the Program's (Modernizing Navigation and Positioning Services) objectives.

*National Coastal Resources Research and Development Institute (NCRI).*—The function of NCRI is to conduct marketing activities and to promote certain segments of the fishing industry, which is a lower priority effort that could be funded by private industry.

*GLERL—Zebra Mussel.*—NOAA will complete the field work on the impacts of the zebra mussel on Great Lakes ecosystems in fiscal year 1994 and synthesize data and publish results in fiscal year 1995 using Great Lakes Environmental Research Laboratory (GLERL) base funds.

*Export Strategies Mahi Mahi.*—This program has been ongoing for seven years and does not support the requirements of the Western Pacific Fishery Management Council or the NOAA Strategic Plan.

*South Carolina Cooperative Geodetic Survey.*—Given the need to fund higher priority on-going and new programs, this regional program is not critical to achieving the Program's (Modernize Navigation and Positioning Services) objectives.

*Stuttgart.*—The budget eliminates funding for the Department of the Interior (DOI), Fish and Wildlife Service, catfish facility in Stuttgart, AR. DOI should fund maintenance of its facilities.

*South Carolina Wetlands Management Demonstration.*—Given the need to fund higher priority on-going and new programs, this regional program is not critical to achieving the Program's (Promote Coastal Ecosystem Health) objectives.

*Hawaii Stock Management.*—This program has been ongoing for seven years and does not support the requirements of the Western Pacific Fishery Management Council or the NOAA Strategic Plan.

*Southeast Florida and Caribbean Recruitment Studies (SEFCAR).*—The SEFCAR Program's purpose is to clarify the interplay of physical circulation features and the behavior of larval reef fish and spiny lobsters on their respective recruitment onto the local coastal and reef environments along the lower Florida Keys. These studies are of lower priority to NOAA particularly since most of the species studied are in State waters.

*Chesapeake Bay Buoys.*—Given the need to fund higher priority, on-going and new programs, this regional program does not contribute as much as do the base programs, to achieving the Program's (Modernize Navigation & Positioning Systems) objectives.

*Maui Algal Bloom Crisis.*—Given the need to fund higher priority on-going and new programs, this regional program is not critical to achieving the Program's (Promote Coastal Ecosystem Health) objectives. The fiscal year 1994 funds for this program will support NOAA's application of its scientific and information capabilities, in coordination with the Hawaii Department of Health efforts, to understand the causes of periodic algal blooms and to develop effective control measures. In fiscal year 1994, NOAA will develop tools to improve prediction and observation capabilities for the algal bloom incidents.

*Southeastern Storm Research.*—NOAA has a comprehensive program of research on thunderstorms and tornadoes which is applicable to areas across the United States. Although region specific research does contribute to some extent to the overall program of understanding mesoscale weather phenomenon, virtually none of these funds support NOAA's base program in severe weather research.

*Atlantic Bluefin Tuna Research.*—The budget eliminates pass through funding to the New England Aquarium for bluefin tuna research. The fiscal year 1995 request includes funding for bluefin tuna research necessary to meet Magnuson Act statutory requirements. These funds are not earmarked for this institution, but potentially the New England Aquarium could participate in research directed by NMFS to meet management requirements.

*U.S./Canada Lobster Study.*—The budget eliminates funding for this study since it has been completed and further funding is not required.

*Lake Champlain Study.*—This is lower priority research to NOAA. NOAA's research in the inland water bodies focuses primarily on the Great Lakes. The understanding of the processes learned while studying these bodies of water is used as a baseline for addressing related problems in other locations. Attempting to address too many different issues with less than the required amount of funds, may result in no significant findings in any area.

*Beluga Whale Committee.*—The budget eliminates funding for the Beluga Whale Committee. Within the overall request for protected species, NMFS will conduct population studies for beluga whales. Funding for the Committee is not the responsibility of NMFS.

*Fishery Observer Training.*—The budget eliminates funding to the University of Alaska in Anchorage to train observers. NMFS currently trains and will continue to train fishery observers; therefore, the funds for the University will cause the duplication of NMFS's functions.

*Pacific Island Technical Assistance Network (PIN).*—NOAA did not include PIN in its fiscal year 1995 budget request because it is of lower priority than other items. NOAA will not, however, abrogate its responsibility to support marine resource development.

*Samoa Weather Office.*—Beginning in fiscal year 1992 funds were provided to repair damage caused by hurricane Iniki to the American Samoa Weather Service Office (WSO). In fiscal year 1993 and fiscal year 1994, these funds were used to provide additional equipment and upgrades. Hurricane damage has been repaired, additional equipment has been purchased, and upgrades to the office have been made. Existing weather services will be maintained.

*California Marine Observation Buoys.*—Given the need to fund higher priority on-going and new programs, this regional program is not critical to achieving the Program's (Short-Term Forecasts) objectives. NOAA/NWS will provide routine maintenance for these and all other weather buoys without an earmark.

*Center for Shark Research.*—The budget eliminates pass through funding to the Mote Marine Lab for shark research. The fiscal year 1995 request includes funding for shark research necessary to meet Magnuson Act statutory requirements. These funds are not earmarked for this institution, but potentially the Mote Marine Lab could participate in research directed by NMFS to meet management requirements.

*Columbia River Smolt/Squawfish.*—Research on squawfish and smolts (predator/prey relationship) is proposed for elimination in the fiscal year 1995 request. If smolt/squawfish predator/prey relationships continue to be an issue of concern in fis-

cal year 1995, studies could be continued within the overall request for protected species.

*Columbia River Facilities.*—The fiscal year 1995 budget proposed to discontinue the operations and maintenance of the Columbia River facilities. NOAA, within the fiscal year 1995 budget request of \$281 million for NMFS, is exploring options to shift resources to continue operations of the Hatcheries.

Funding is not requested in fiscal year 1995 for construction and installation of fish screens and diversion devices in order to allow states to complete projects previously funded. Additional fish screen construction and installation will be addressed, as needed, in future budget requests.

*Estuarine Research Reserves.*—NOAA views this as a one-time special appropriation to address important needs—facilities construction and land acquisition—in specific sites. In fiscal year 1994, NOAA provided grants to 20 out of 22 reserves to address their highest priorities (6 grants for land acquisition and 17 grants for facilities construction).

*Lafayette Fisheries Lab.*—A feasibility study completed in fiscal year 1994 identified the need and characteristics of the new lab to be built in Lafayette, Louisiana and estimated the construction costs to be about \$12.5 million. Given the time required to complete the Architectural and Engineering (A&E) design, additional construction funding will not be required in fiscal year 1995.

*Newport Marine Sciences Center.*—Funds were provided in fiscal year 1994 for construction of dock facilities at the Newport Marine Sciences Center in Newport, OR, in support of NOAA's VENTS Program and other Federal oceanographic and marine research activities at the Center. As the Center is not a NOAA facility, continued funding is not requested.

*Indiana State University.*—Funds were provided in fiscal year 1994 for the Indiana State University Center for Interdisciplinary Science. This project was previously funded under the Small Business Administration. The Center is not a NOAA facility, nor does it directly support the NOAA mission; therefore, continued funding is not requested.

*Boston Biotechnology Innovation Center.*—Funds were initially provided to the Economic Development Industrial Corporation in Boston, MA in fiscal year 1993 for construction and related expenses for a biotechnology innovation center. This will not be a NOAA facility and it will not have any direct NOAA-related mission, therefore continued funding is not requested.

*Mystic Maritime Education and Research Center.*—Funds were provided in fiscal year 1994 to the Mystic Seaport in Mystic, CT for construction and related expenses for a maritime education and research center. This will not be a NOAA facility, nor will it have any direct NOAA-related mission, therefore, continued funding is not requested.

*Multispecies Aquaculture Center.*—Funds were provided in fiscal year 1994 to continue the multispecies aquaculture project at Rutgers University. Starting in fiscal year 1992, these funds provided support site selection, preliminary design and engineering, construction and related expenses of the Center. This is not a NOAA facility, therefore, continued funding is not requested.

*Ruth Patrick Science Education Center.*—Funds were provided in fiscal year 1994 for the Ruth Patrick Science Center in Aiken, South Carolina to purchase equipment. The Science Center is not a NOAA facility, nor does it directly support the NOAA mission, therefore, continued funding is not requested.

*Oxford, Maryland Marine Fisheries Laboratory.*—Funds were provided in fiscal year 1994 to improve the Oxford, MD, National Marine Fisheries Laboratory. These funds are sufficient to address the most significant needs of the laboratory. Specific funds for Oxford maintenance are not required for fiscal year 1995. Future facility maintenance funding requirements at Oxford will be covered through the base facility maintenance program within the Construction Account.

*Monitor Marine Sanctuary Museum.*—Funds were provided in fiscal year 1994 for acquisition of space for the display and interpretation of artifacts from shipwrecks off the coast of North Carolina which are part of the Monitor National Marine Sanctuary. The museum is not a NOAA facility, and therefore continued funding is not requested.

*Fort Johnston, South Carolina Marine Resource Laboratory.*—Funds were provided in fiscal year 1994 for the planning and design of a joint federal/state marine resources lab to be located at the Marine Resources Center in Fort Johnston, SC. The funds provided in fiscal year 1994 are sufficient to complete the planning and design studies. Construction requirements will be assessed as part of future budgets consistent with overall program requirements and available resources.

*Kodiak, Alaska Fisheries Center.*—Funds were provided in fiscal year 1994 to continue architectural and engineering studies begun in fiscal year 1992 on a joint Fed-

eral-State facility at Near Island off Kodiak, Alaska. Once these studies have been completed, decisions regarding construction will be made.

**Beaufort Laboratory.**—NOAA requests elimination of maintenance funding for the Beaufort laboratory. This is part of an overall adjustment to NOAA's approach to facilities repairs and renovations within the context of the President's overall budget strategy. Any future repairs and renovations for this facility will be performed through our normal facilities maintenance activities. NOAA/NMFS plans to continue to maintain the current Beaufort physical plant in order to continue the necessary long-range fisheries and habitat research for the region.

#### GLOBE

**Question.** The budget proposes \$7 million for a new "Global Learning and Observations to Benefit the Environment (GLOBE)" Program. Could you please explain in detail how this program would operate and how these funds would be used?

**Answer.** Global Learning and Observations to Benefit the Environment (GLOBE) is an interagency initiative for a broad national and international science and education program in which NOAA will be the lead agency. The major portion of funds will stay in the United States.

This new interagency program is designed to (1) enhance global environmental awareness, and (2) to increase the scientific understanding of the earth by working with the worldwide network of schools to collect environmental observations. Scientists will conduct experiments in which the geographic density of the world's schools would augment the accurate but low density observations from existing in situ and satellite measurements.

The GLOBE Program has a project underway specifically for the purpose of planning the program in detail. By the end of fiscal year 1995, the first planning phase will be complete. The program would perform test projects with students, scientists, data centers and communication networks in fiscal year 1995 to learn enough about the operation of global science and education network programs in order to take the next step in system design.

**Question.** What is NASA's role in the GLOBE program?

**Answer.** NASA is a major partner in the GLOBE program. NASA has contributed personnel to the planning and integration program. In fiscal year 1994 NASA contributed \$300,000 and has requested \$5 million in their fiscal year 1995 budget for this effort. The NASA will use these funds for initial system testing, software development, and communication engineering.

**Question.** Is the U.S. Department of Education funding this program?

**Answer.** The U.S. Department of Education is not funding the program. However, there are resources within the programs of the Department of Education which can be employed effectively by the GLOBE Program.

**Question.** Aren't these types of international programs generally requested under the Foreign Operations Appropriations Bill?

**Answer.** As most of the funds are intended to be used within the United States, NOAA funding for GLOBE is being requested under the Departments of Commerce, Justice, State, and Related Agencies Appropriation Bill.

#### CLIMATE AND GLOBAL CHANGE

**Question.** Please provide a budget total and description of all Climate and Global Change Research being conducted by NOAA in fiscal years 1993, 1994 and 1995—not on research funded by the joint program. What is the budget for all agency efforts?

**Answer.** There are six main program areas in the NOAA Climate and Global Change (CGC) Program. The research in these areas is described below and is followed by a table that shows the funding levels for fiscal year 1993 to fiscal year 1995.

Atmospheric Chemistry, including atmospheric constituent sources, sinks and trends; processes related to the climatic impact of the greenhouse gases and aerosols, the causes, extent, and implications of stratospheric ozone depletion, with emphasis on information relating to choices among halocarbon substitutes; the characteristics of Antarctic and Arctic Ozone losses; and, the elucidation of the causes of the downward trends in global ozone.

The Role of the Ocean in Climate Change and the Response of Marine Ecosystems, including: (i) the establishment and maintenance of a global sea level monitoring network; (ii) a long-term program of surface and upper ocean observations; and (iii) critical U.S. contributions to high-priority international ocean research projects of the World Climate Research Program (WCRP) and the International Geosphere-Biosphere Program (IGBP), including the Tropical Ocean-Global Atmosphere

(TOGA) Program, the World Ocean Circulation Experiment (WOCE), the Joint Global Ocean Flux Studies (JGOFS), and the Global Ocean Ecosystems Dynamics (GLOBEC) Program.

Clouds, Energy and the Land Surface Hydrology, with an emphasis on leadership and support of the international Global Energy and Water Cycle Experiment (GEWEX) and in particular, the first GEWEX Continental-scale International Project—GCIP.

The Human Dimensions of Global Change, with an early emphasis on critical NOAA contributions to the evolving U.S. program of Economics Research Related to Global Change, particularly in the areas of determining the value of information to decision makers and assessing the economic implications of climate change, including seasonal and year-to-year fluctuations.

Documenting Climate Change, with a particular focus on distinguishing between natural and human-induced change, through projects aimed at: (i) developing and providing important climate and global change measurement products derived from operational satellite and ground-based observing systems; (ii) developing and testing new and improved measurement techniques; (iii) continued leadership in the establishment of an effective national data and information management system for the USGCRP; and (iv) a program of paleoclimate research and data base development with a primary focus on climate records with seasonal, interannual and decadal resolution.

Modeling, Prediction and Scientific Assessment, through a comprehensive climate dynamics and experimental prediction program focused on: (i) the development and application of ocean models; (ii) near-term forecasting improvements to extend operational predictive capability on monthly and seasonal timescales; and (iii) implementation of an effective multi-agency program to improve climate modeling prediction and analytical capabilities on year-to-year and decadal timescales.

#### FUNDING OF THE NOAA CGC BY MAJOR PROGRAM AREA

[In millions of dollars]

	Fiscal year—			
	1993 State actuals <sup>1</sup>	1993 NOAA actuals	1994 estimate	1995 estimate
Atmospheric chemistry .....	1,236	6,364	7,300	7,800
Role of the ocean in climate change .....	9,887	13,913	22,800	26,900
Clouds, energy and land surface hydrology .....	1,927	2,273	4,900	7,400
The human dimensions of global change .....		600	500	500
Documenting climate change .....	1,823	16,977	16,900	18,900
Modeling, prediction and scientific assessment .....	5,127	5,773	10,500	22,400
<b>Total funding .....</b>	<b>20,000</b>	<b>45,900</b>	<b>62,900</b>	<b>83,900</b>

<sup>1</sup> In fiscal year 1993, \$20 million was appropriated to the Department of State for use by NOAA in the Climate and Global Change program.

**Question.** Please provide detail for which activities in NOAA and which universities have received funding (and the amount) from the Climate and Global Change Program for fiscal years 1991, 1992, 1993 and 1994.

**Answer.** The NOAA Climate and Global Change Program has from its beginning, included a balance of NOAA and university and institutional research. The percentage breakdown of the NOAA and institutional/university funding by fiscal year is:

	Fiscal year—			
	1991	1992	1993	1994 <sup>1</sup>
NOAA <sup>2</sup> .....	69.6	64.4	53.4	55.9
Institutions/universities .....	30.4	35.6	46.6	44.1

<sup>1</sup> Projected for fiscal year 1994.

<sup>2</sup> Includes cooperative institutes associated with universities

The table below provides the Universities/Institutions that were awarded grants from the Climate and Global Change Program (and the total amount of those grants) for the last two complete fiscal years (fiscal year 1992 and fiscal year 1993):

(In thousands of dollars)

Institution/university	Fiscal year—	
	1992 total	1993 total
Arctic Analysts Inc .....	62.00	
Atmos. and Envir. Res .....	364.00	249.60
Bermuda Biological Station .....	62.20	
Bigelow Lab .....	64.60	15.00
Boise State University .....		46.90
Brookhaven .....	45.60	
Brown University .....		60.00
Clark University .....	64.10	127.30
Colorado State University .....	605.00	200.00
Columbia University .....	980.10	1,519.70
Dartmouth College .....		460.00
Desert Research Institute .....		60.50
Duke University .....		181.50
Florida State University .....	501.20	436.10
Georgia Institute of Technology .....	132.00	
Georgia Tech Res. Corp .....	43.60	80.00
Illinois State University .....	52.50	
Illinois State Museum Soc .....		31.30
Inst. Global Env and Soc .....	384.00	115.00
Johns Hopkins University .....		44.60
Lamont-Doherty .....	85.00	74.80
Lawrence Livermore N. L .....		57.00
M.I.T .....	498.70	378.40
Monterey Bay Aquarium .....		100.00
National Safety Council .....	25.20	
New Mexico State University .....	90.00	85.10
North Carolina State University .....	84.70	147.80
Nova University Ocean. Center .....	47.60	49.00
NW Res Assoc .....	81.40	
Ohio State University .....		299.70
Oklahoma State University .....	8.50	
Old Dominion University Res. Found .....		61.60
Oregon State University .....	375.60	307.10
Pennsylvania State University .....	41.50	62.60
Princeton University .....	260.80	428.90
RAND .....	84.60	92.10
Rutgers University .....		110.00
Scripps .....	748.50	822.50
Smithsonian .....	67.20	
St. Louis University .....	80.00	
Texas A&M .....	50.50	139.40
University of Alabama .....	58.00	62.80
University of Alaska .....	280.90	115.00
University of Arizona .....	110.00	210.00
University of California .....	1,339.90	5,774.30
University of Chicago .....		98.70
University of Colorado .....	837.50	789.40
University of Delaware .....	176.40	135.10
University of Florida .....		80.00
University of Houston .....		28.90
University of Illinois .....	62.40	186.80
University of Iowa .....	131.60	115.00

(in thousands of dollars)

Institution/university	Fiscal year—	
	1992 total	1993 total
University of Maine .....		30.00
University of Maryland .....	910.40	711.10
University of Miami .....	393.80	219.40
University of Michigan .....		238.50
University of Minnesota .....		70.00
University of Nebraska .....		150.00
University of Nevada .....	155.10	207.00
University of New Hampshire .....	115.00	194.00
University of North Carolina .....		95.20
University of Oklahoma .....	250.00	65.00
University of Oregon .....	18.40	
University of Puerto Rico .....		30.00
University of Rhode Island .....	519.50	431.70
University of South Carolina .....		75.30
University of South Florida .....		121.60
University of Southern California .....	135.00	37.00
University of Texas .....		40.00
University of Utah .....	90.00	155.00
University of Virginia .....		34.60
University of Washington .....	190.00	805.40
University of Wisconsin .....	330.00	381.30
Univ. Corp. for Atmos. Res .....	2,464.70	7,897.20
Utah State University .....	76.60	109.10
W.M. Rice University .....	28.10	
Washington University .....	60.00	
Western Michigan University .....	10.00	
Western Washington University .....		72.10
Wesleyan University .....	55.60	54.00
Woods Hole .....	1,127.60	1,302.50
Total .....	15,917.20	27,966.50

**Question.** How does NOAA propose to spend the \$21 million increase proposed for the Climate and Global Change Program? How much would be for extramural research?

**Answer.** In its fiscal year 1995 increase request, Climate and Global Change activities will focus on Implementing Seasonal to Interannual Climate Forecasts and Prediction and Assessment of Decadal to Centennial Change. These are both central elements of NOAA's Strategic Plan. In so doing, NOAA will be addressing the following major policy issues identified as priorities in the fiscal year 1994 U.S. Global Change Research Program Congressional Submission: (i) Seasonal to Interannual Forecasting; (ii) Stratospheric Ozone and UV-B; (iii) Climate Change and Greenhouse Warming; and (iv) Ecological Change and Biodiversity.

In addition, NOAA's fiscal year 1995 increase request significantly expands assessment activities, particularly in the areas of seasonal to interannual climate forecasts; human dimensions research, with a particular emphasis on economics research; support for the work of the Intergovernmental Panel on Climate Change; and global change education. NOAA's fiscal year 1995 proposal is aimed at maintaining the Department of Commerce's preeminent position in the Clinton-Gore Administration's commitment to provide an objective, balanced view of both economic development and environmental stewardship issues associated with changes in the global environment.

None of the elements of NOAA's fiscal year 1995 increase request represents entirely new initiatives. All of the principal areas of growth in NOAA's fiscal year 1995 proposal represents natural extensions of ongoing USGCRP activities, and can be summarized as follows:

- Implementation of a seasonal to interannual climate forecasting capability to implement an International Research Institute for Seasonal-Interannual Cli-

mate Prediction and build on existing capabilities at the National Weather Service to establish an operational forecasting system for the U.S. and its interests abroad;

- Expansion of NOAA's contributions to the Global Climate Observing System (GCOS) with an initial focus on implementation of a Global Ocean Observing System (GOOS) which, as an early objective will provide observational support for seasonal to interannual climate forecasting; and activities aimed at ensuring that new observational systems associated with the modernized National Weather Service provide a reliable contribution to long-term climate records;
- Enhanced support for the WCRP's evolving Program on Climate Variability (CLIVAR) with continued contributions to the World Ocean Circulation Experiment, the Atlantic Climate Change Program and program of research focused on North American precipitation through support of TOGA/GOALS and G7WEX;
- Additional process research in support of high-priority international programs including the Joint Global Ocean Flux Study (JGOFS), the International Global Atmospheric Chemistry (IGAC) program; and the Global Ocean Ecosystems and Dynamics (GLOBEC) program; and
- Planned expansion of NOAA's information management activities in support of the Global Change Data and Information System (GCDIS).

In regards to the amounts targeted for extramural research, NOAA believes that the mix between internal programs and external research will remain consistent with fiscal year 1994 projections (55.9 percent NOAA—44.1 percent Extramural Research).

#### AWIPS

**Question.** The budget proposes \$49.6 million to continue development of the Advanced Weather Interactive Processing System.

Please provide a status report on this program and the development effort.

**Answer.** The Development Phase Contract was awarded to PRC, Inc on December 29, 1992. PRC delivered AWIPS Government Development Platforms (GDP's) to nine sites. These GDP's are (a) facilitating the NWS's development and test of hydrometeorological applications software that is required to be integrated into AWIPS, (b) enabling several River Forecast Centers to use the valuable precipitation data available from the new radars (NEXRAD's) as these radars come on-line, and (c) enabling independent examination of selected aspects of AWIPS system and architecture and performance. To ensure a technically acceptable system, an extensive review of AWIPS requirements was completed with PRC, prior to the onset of design activities.

The Government has a concern with the state of PRC's system development process, as manifested in the System Design Document (SDD), which was delivered in February 1994. The Government rejected the SDD as it failed to present an adequate description of the total system design and did not clearly describe the incremental build process. The Government is working closely with PRC to develop a plan to correct the SDD. In addition, the Deputy Under Secretary has chartered an Independent Assessment Panel, modeled after the highly-successful assessment of the Geostationary Operational Environmental Satellite (GOES) Program, to review the entire AWIPS program. The Independent Assessment will be completed in June, with the objective of providing a clear strategy for moving the program forward to delivery and acceptance of an operational system which meets NOAA's needs.

The Government is also exploring ways to effectively collaborate with PRC in other technical areas in which the Government has gained insight and competence through its continued in-house prototyping and allied risk reduction activities.

**Question.** Please provide the five year funding profile for the program (please break-out development, procurement and initial operations costs). What and when are the program milestones? When will a decision be made to proceed with limited production? With full-scale production? How many units will be procured by fiscal year?

**Answer.** The Mission Need Statement associated with Key Decision Point No. 3 was approved by the Deputy Secretary in October, 1992. That decision allowed the Program to proceed to the Development Phase, and identified the function of that phase as "System Development and Testing and Limited Production and Deployment."

Under the current 39-month baseline schedule for the Development Phase, PRC is to install, at eight sites, what is known as the AWIPS First Article Capability (FAC) during July and August 1995. The FAC at these sites will enable the Government to become familiar with some of the core capabilities of AWIPS and to assess

PRC's compliance with requirements. A Limited Deployment Review (LDR) is scheduled for November, 1995. Subsequent to the LDR, the eight sites with FAC capability are to be upgraded to the Initial Deployment Baseline Capability (IDB) and another eight sites are targeted for installation of the IDB. The IDB will enable these sixteen sites to conduct operations and services with AWIPS and this experience will provide key input to the Deployment Readiness Review (DRR). Subsequent to the DRR, currently scheduled for February, 1996, the Department will be requested to reaffirm the Mission Need Statement. This will constitute Key Decision Point No. 4 and will be the decision to proceed with nationwide Deployment.

Listed below is a break-out of the requested schedule information:

*AWIP's Delivery (Procurement) Schedule*

	Number of units
1995 .....	8
1996 .....	18
1997 .....	82
1998 .....	37
Total number of units .....	145

FUNDING PROFILE INFORMATION

	Fiscal year estimates—				
	1995	1996	1997	1998	1999
Acquisition/deployment .....	\$25,896	\$69,949	\$63,023	.....	.....
In house development, testing and evaluation .....	11,229	11,877	12,305	10,686	9,852
NOAA Port product prep .....	2,550	1,500	1,500	1,500	1,500
Support contracts .....	3,145	5,833	5,545	5,575	4,480
Operations and maintenance .....	686	663	1,919	16,026	15,779
Program management .....	6,044	6,194	6,194	5,694	4,775
Total .....	49,550	96,016	90,486	39,481	36,386

NOAA FLEET MODERNIZATION

*Question.* Three years ago this Subcommittee started an initiative to rebuild NOAA's aging research infrastructure. Its fleet of vessels—its aircraft—and facilities. Last year we got the House to agree to add funds for both a new oceanographic research vessel and a hurricane reconnaissance aircraft.

Your written statement talks about the need to invest in infrastructure. But, your budget request does the opposite. Your request for Fleet Modernization goes from the appropriation level of \$77.1 million down to \$23 million. The budget simply finances minimum maintenance and does not make progress in rebuilding the fleet.

Why has infrastructure been accorded such a low priority in NOAA's budget?

*Answer.* We do not believe infrastructure has been accorded a low priority in NOAA. We fully recognize the importance of a healthy infrastructure in performing our mission. However, given severe budget constraints and immediate need of other areas (NWS modernization, living marine resources), we made the hard choice of deferring investments in infrastructure. We had also requested the Marine Board of the National Research Council to review our fleet modernization plans and provide advice and suggestions. We have received and are now assessing their report.

*Question.* What is the status of procuring the hurricane reconnaissance aircraft? When do you estimate we will have an operational aircraft conducting surveillance of hurricanes?

*Answer.* We expect to go out with a Request for Proposal for procurement of the airframe on May 20, 1994. We expect to obligate funds for this item by September 16, 1994.

We expect to have an operating platform for conducting surveillance of hurricanes by April of 1996.

*Question.* I've heard that your Mapping and Charting folks are proposing to drastically change the way in which they conduct nautical charting. Moving away from ships and using small boats and shore parties. Could you elaborate? What are the

equipment and budget requirements of this procedure? What is the impact on the mapping and charting fleet?

**Answer.** There is an enormous area (43,000 square nautical miles) of coastal waters that is considered critical for safe navigation. In an effort to be responsive and survey this area quickly, NOAA is modernizing its launches employed aboard survey ships. We are incorporating new highly efficient survey technologies such as Global Positioning Systems (GPS), Shallow Water Multibeam Sonars, High speed-High resolution Sidescan Sonars, Multispectral Imaging, and Laser Sounding Technology that will be employed by field parties, survey ships and aircraft.

While this modernization effort will allow us to accelerate the surveying of areas that can be surveyed most efficiently with small boats and shore parties, much will remain for the NOAA survey fleet. This modernization effort is not intended as a replacement for the mapping and charting fleet, but as an enhancement. Within our fiscal year 1995 budget request is an increase of \$645,000 to improve nautical survey techniques and produce digital electronic chart data and \$1 million to modernize the launches employed aboard survey ships (This is in addition to planned expenditures of \$2.3 million for this purpose in fiscal year 1994). We have also recently received a report that we requested from the Marine Board of the National Research Council. This report reviewed our fleet modernization and small boat plans and suggested some approaches to consider in our nautical charting efforts. The Marine Board report supported NOAA's Small Craft Plans.

#### NEW ENGLAND FISHERIES

**Question.** I understand that Secretary Brown recently received a letter from several conservation organizations expressing their concern about providing financial assistance for New England fisheries. I share their view that attempts to provide a quick fix may merely prolong the problem of too many fishermen chasing too few fish and that using federal funds to finance fishing vessels and processors could even make matters worse.

How do you plan to ensure that emergency aid to New England fishermen contributes to the solution and not to the problem?

**Answer.** One of my foremost concerns in taking this job has been to balance the needs of both the environmental stewardship and economic development functions for which this Department is responsible. It is for this purpose that I established the Office of Sustainable Development and Intergovernmental Affairs in NOAA. Under the leadership of former New Bedford Mayor John Bullard, this office has acted as the coordinating mechanism for ensuring that a comprehensive plan for Northeastern fishing communities and the people that depend on the resource is developed.

The Office of Sustainable Development and Intergovernmental Affairs is spearheading our response to the Northeast fisheries crisis. The Office is coordinating the responses of the Economic Development Administration and the National Marine Fisheries Service in a way in which the development of the industry, the resource, and the communities and fishermen is truly sustainable.

#### NEW ENGLAND FISHERIES—EMERGENCY APPROPRIATIONS

**Question.** Please provide a description of how the \$30 million in emergency appropriations from the Los Angeles earthquake supplemental have been used for the crash in the New England groundfish fishery.

**Answer.** Of the \$30 million in emergency funding appropriated to the Department of Commerce for use to address the collapse of the Northeast Fisheries: \$18 million was provided to Economic Development Administration (EDA); and, a total of \$12 million was to be provided to NOAA. The funds were to be used for the following specific purposes:

**EDA Funding.**—Provide \$18 million for aid to the New England fishing industry and communities affected by the collapse of commercial fisheries. The funds will be used primarily for refinancing of debt, technical assistance, and strategic planning.

**Financial Restructuring.**—Provide \$1 million in new loan guarantees through the Fishing Vessel Obligations Guarantee Program (FVOG) for debt restructuring, debt refinancing, etc. The net effect would be to lower the cost of commercial fisheries debt and stretch its service over a longer period more consistent with the cyclical earnings nature of the fish industry and economically useful lives of its production equipment.

**Alternative Economic Activity.**—Provide \$9 million in direct grants to support alternative markets and on-shore infrastructure for fish in New England areas affected by the collapse of commercial fisheries.

**One-Stop Shops.**—Administer (\$1 million) a series of one-stop shops in the major affected ports to serve as a clearinghouse for all potential Federal assistance. This effort is being coordinated with the Small Business Administration and Department of Labor.

**Program Administration.**—Administer (\$1 million) both the loan guarantees and grants programs.

The NOAA related funds were provided to the National Marine Fisheries Service in an Allowance Advice dated April 15, 1995. As of April 22, 1994, NOAA has prepared a spending plan for its contribution to operate the one-stop shops through the end of fiscal year 1995. No loans or grants have yet been obligated.

**Question.** Have any non-Commerce Department agencies contributed funding to help with the recovery? If so, please provide detail by agency.

**Answer.** The Department of Labor has so far committed \$200,000 to the Massachusetts Industrial Services Program for the purpose of establishing fishing family assistance centers in three Massachusetts locations: Gloucester, New Bedford, and Provincetown. This money is good until July 1, 1994 and is out of the Secretary of Labor's emergency reserve account. Starting in July, the State of Massachusetts will have enough money in its Labor budget to continue operating these centers.

This is truly a DOL/DOC collaborative effort. The Office of Sustainable Development and Intergovernmental Affairs is working with the Maine Department of Labor in hopes of providing similar services in Portland.

The Small Business Administration is currently considering changes in its 7(a) loan guarantee program which may make these guarantees available to a larger pool of fishermen than it can currently service.

The Department of Housing and Urban Development has allocated \$1.75 million in Section 108 loan guarantees to the City of Gloucester.

**Question.** Given that you just received \$30 million for this problem which was not contemplated when the budget was submitted, why is there still a requirement for the \$3.5 million requested in the budget?

**Answer.** The Department has requested \$3.5 million in next year's budget for the Northwest Atlantic Ocean Fisheries Reinvestment Program (NAOFRP). Currently, this program is funded at \$1.5 million. The problems facing the Northeast fishing industry and the natural resource will require an ongoing investment.

This year, in an effort to both spend the \$1.5 million expeditiously and potentially leverage additional matching private funds, the Department entered into a cooperative agreement with the National Fish and Wildlife Foundation for the purposes of awarding grants under the NAOFRP.

**Question.** In your opinion, what caused the depletion of New England groundfish stocks?

**Answer.** The major cause of the collapse of the New England groundfish stocks is overfishing, although we are still investigating other factors which have contributed to the problem, such as changing water temperatures, changing predator-prey relationships, and the condition of estuarine environments.

**Question.** What are you going to do when all the west coast states ask for the same type of funding from NOAA?

**Answer.** On May 26, the Administration announced a \$15.7 million emergency assistance package for the Northwest to help address the economic dislocations caused by the decline of salmon stocks. The specifics of this proposal include:

- \$12 million will support permit buyouts to reduce salmon harvesting capacity and to create jobs for salmon habitat restoration programs modeled after "Jobs in the Woods". These are previously appropriated funds contained in Public Law 102-396, subject to an emergency declaration by the Secretary of Commerce and budget request to the Congress from the President. Funds will be administered by this Department's National Oceanic and Atmospheric Administration (NOAA) with the affected States.
- \$3 million will be reprogrammed to the Rural Development Administration's (RDA) Business Enterprise Grant Program from amounts in RDA loan and loan guarantee programs initially earmarked in the President's Northwest Economic Adjustment Initiatives. Funds will be available to businesses and communities affected either by the President's Forest Plan or the decline in the salmon fishery.
- Up to \$700,000 will be allocated by the Department's Economic Development Administration (EDA) to support economic diversification, including tourism promotion. This money comes from EDA's fiscal year 1994 base Title IX funds and is addition to \$11 million previously allocated to your region.

The monies (other than those dedicated to permit buyouts) will be administered through Community Economic Revitalization Teams (CERT's)—an inter-agency, inter-governmental process established under the President's Northwest Economic

Adjustment Initiative. Federal, State, and local officials with knowledge of and responsibility for fisheries issues should participate in the CERT process.

It was also announced that the Commerce Department's Office of Sustainable Development would spearhead a series of eight town meetings in California, Washington, and Oregon which will begin on June 1 and conclude on June 11. These meetings exemplify the bottom-up approach which was utilized in the Northeast and are intended to help us better identify the needs of Northwest fishermen and the communities. This public input is crucial to sound policy making and is strongly supported by the Congressional delegations from each of states, from industry representatives, and from representatives of the various state and local governments.

#### QUESTIONS SUBMITTED BY SENATOR J. ROBERT KERREY

##### REGIONAL CLIMATE CENTERS

*Question.* You are proposing as an investment strategy, the development of a National Climate Prediction Center and National and International Climate Centers. Yet at the same time you are proposing termination of the six Regional Climate Centers. This seems quite inconsistent. Can you explain your reasoning?

*Answer.* The Regional Climate Centers do not produce forecasts and mainly provide regional climate data, while the Climate Analysis Center produces longer range forecasts for monthly and seasonal time ranges that can be used by the nation's citizenry and businesses to make longer range contingency plans for unusual weather patterns.

The Climate Analysis Center, as a result of the fiscal year 1995 request, will be able to build on the resources and infrastructure already in place at the National Weather Service (NWS) to make national long-lead forecasts of climatic conditions and unusually severe or prolonged conditions, and to disseminate this information to all interested parties. Funding for the Regional Climate Centers, which do not provide forecasting capabilities is lower in priority.

*Question.* I understand that each of the Regional Climate Centers handles up to 35,000 requests for information. Nebraska's High Plains Climate Center at UNL provides a great benefit to the agricultural community. Information provided by the centers can result in tremendous savings to the nation, for instance, during the great flood of 1993 or in a regular crop year. Have you been able to calculate, in monetary terms, the benefits provided by the climate centers? Are you pleased with the work they do?

*Answer.* No studies have been done to evaluate the monetary benefits directly provided by the Climate Centers, nor is the fiscal year 1995 budget request to eliminate funding for the Regional Climate Centers based on NOAA's disapproval with their work.

NOAA recognizes the tremendous economic benefit of accurate seasonal climate forecasts to the agriculture community. One study calculated the economic benefit as over a \$100 million per year for several crops in one region in the southeast when a perfect El Niño Southern Oscillation (ENSO) forecast was provided. Benefits for the entire U. S. would be substantially more.

For reasons of national security and economic advantage in both the domestic and international arenas, the U.S. needs an official climate forecast from a Federal source (NOAA), with complete autonomy in, and responsibility for, the development and dissemination of its own forecasts, via a facility that is fully funded and managed by the United States. NOAA contends that this role be filled by the Climate Analysis Center (CAC) located at the National Meteorological Center. Forecasts and climatic data will be made available through in-place infrastructure (Weather Forecast Offices, NWS Publications, Internet) as well as expanded product suites and supporting data sets.

*Question.* In the past, Congress has provided funding for Regional Climate Centers. This has led to the development of expertise in each center to deal with climate issues and to support climate data through many modes of access, including the information (computing) super highway. If funding for Regional Climate Centers is not restored, can NOAA provide alternative access facilities and personnel in fiscal year 1995 to continue the service that the centers now provide?

*Answer.* NOAA will provide similar services while not duplicating the efforts of state climatologists. Climate data including forecasts, developed at the Climate Analysis Center and the subsequently formulated seasonal forecasts would fill this requirement. NOAA is currently planning to expand its seasonal and longer climate forecasts, detailed on a regional to global basis through advanced computational modeling and application of increased ocean and atmospheric understanding in seasonal-to-interannual time frames. This major expansion in NOAA's data and infor-

mation dissemination, through the INTERNET (the current implementation mode for the Super Highway) is a vital part of NOAA's proposed increased effort under its Environmental Information Program.

*Question.* Where will the funding come from to continue these services?

*Answer.* Funding for the Climate Analysis Center is included in the Implement Seasonal-to-Interannual Climate Forecasts Program and support for climate data access and distribution is included in the Environmental Information Program.

*Question.* I understand that a plan for National Climate Services was authorized and that NOAA's Climate Analysis Center and National Climatic Data Center drew up such a plan. What is the timeline for implementing this plan? When will NOAA formally submit the plan to Congress?

*Answer.* No plan has been developed or approved by NOAA.

*Question.* The Federal Government currently spends about \$1.4 billion on the Global Change program. The support of a \$3 million program to disseminate and transfer results from research is less than a quarter of a percent. Is it a sound strategy to spend so little or even terminate spending on the linkage with the public and private sector?

*Answer.* There is no proposal to terminate spending on public outreach education within the U.S. Global Change Research Program (USGCRP). The Regional Climate Centers are not part of the USGCRP, nor do these centers provide direct support in transferring USGCRP research to the public.

With regard to the funding within the USGCRP used for the transfer and dissemination of results to the public and private sector, the following considerations are warranted:

1. The first priority within the USGCRP has been to undertake the research, and to get programs established.

2. There is probably much more expenditure on the dissemination of research results that the budget documents directly identify. For example, principle investigators routinely present and publish research papers; exhibits are set up and staffed within agency operating budgets (such as the recent National Science Teachers Association annual meeting in Anaheim, California). The large number of posters, CD-ROM's, and publications, including teacher resource materials pertaining to Global Change Programs (OGP) has been at the forefront of this activity and has been a leader for other agencies in this regard.

3. Within the USGCRP, and housed at OGP is the Private Enterprise-Government Interactions (PEGI), a program designed to partner private sector interests with global change research endeavors.

4. Currently, the USGCRP working group for Education and Communication is being strengthened with the addition of two vice-chairs, and a mandate for the production and implementation of a five year plan to boost the dissemination of global change research results.

#### WEATHER SERVICE

*Question.* For the record, could you update us on the status of modernization of the weather service in the state?

*Answer.* Modernized weather services in Nebraska will be provided by three in-state Weather Forecast Offices (WFO's) at Hastings, Omaha, and North Platte, and by WFO's in Goodland, KS and Cheyenne, WY. Next Generation Doppler Radars (NEXRAD's) covering the state are operational at Hastings and Goodland, KS. NEXRAD's are scheduled for delivery to Omaha in May 1994, Cheyenne, WY in August 1994; and to North Platte in June 1995. ASOS's in Nebraska were commissioned at Lincoln and Grand Island in fiscal year 1992; was accepted at Scottsbluff in fiscal year 1993; and are scheduled for delivery to Valentine and Norfolk this year, and to North Platte in 1995.

*Question.* Last year you said that the Scottsbluff, Valentine, Alliance, Lincoln, and Norfolk office would have their services assumed by other offices. I assume that means these offices will be closed. When will that happen? What plans have you made to reassign the employees in those office?

*Answer.* As the NEXRAD's become operational, service responsibility will be transferred from Scottsbluff, Valentine, Lincoln, and Norfolk to the future WFO's serving the state. Alliance is a meteorological observatory and has no public service responsibility. As the NEXRAD's are commissioned, existing obsolete radars at Grand Island, Norfolk, North Platte, Omaha, and Alliance will be decommissioned. Scottsbluff, Valentine, Lincoln, Norfolk, and Grand Island are defined as field offices by Public Law 102-567. That law prohibits field offices from being closed prior to January 1, 1996. However, some draw-down of these offices will occur before completed, as the new technologies come into use at the WFO's, as permitted under the

law. Alliance is not a field office as defined by the law, and consequently is not subject to the certification requirements. The schedule for these events can be found in the National Implementation Plan for Modernization of the NWS. The most recent update of this plan, for fiscal year 1995, was approved by the Secretary of Commerce and submitted to Congress in March 1994.

The NWS has made a commitment to provide job opportunities in the modernized Weather Service for all current employees. During the process of accomplishing the transition to the modernized and restructured NWS, vacancies will occur at the old offices as employees bid on and are accepted for jobs in the new offices. Although NWS will make every reasonable effort to cover these vacancies through overtime, details, etc., some temporary reduction in hours of operation at old offices may be unavoidable at these old offices. NWS will keep members of Congress advised should this become problematic.

#### GLOBE

*Question.* I see you are requesting an increase of 8 FTE and \$7 million for the Global Learning and Observations to Benefit the Environment or GLOBE program. According to your budget justification you are currently involved in 6 schools in 6 countries but plan to expand to 300 schools and 20 countries in fiscal year 1995. What criteria will be used to choose schools for expansion?

*Answer.* The GLOBE Planning and Integration team is defining the criteria for the selection of schools. Candidate schools will apply, based on the guidelines developed by the GLOBE Planning team.

*Question.* Will implementation occur gradually or is there some package ready to go that can be placed in all 300 schools at once?

*Answer.* During fiscal year 1994, there will be no GLOBE school activities. During fiscal year 1995, there will be 300 to 500 schools participating, of which 20 to 40 will be in the U.S. By 1996, we project over 1,000 schools will be participating with a goal of 100,000 by the year 2000. At least 90 percent of the GLOBE funds will be spent in the U.S.; the overseas costs will be shared with foundations and other countries.

There is no package ready to go that can be placed in the schools; this material is currently being developed.

*Question.* What is the total amount government-wide that is being proposed for the GLOBE program and what Departments and Agencies are involved?

*Answer.* The fiscal year 1994 estimated cost to NOAA for GLOBE is \$500,000. NASA, EPA, National Science Foundation (NSF), Department of State, and Department of Education are participating now and plan to participate in fiscal year 1995. The current funding profile for GLOBE in fiscal year 1994 and fiscal year 1995 is provided below:

[In millions of dollars]

	NOAA	NASA	NSF	EPA
Fiscal year:				
1994 .....	0.5	0.3	0.2	0.2
1995 .....	7.0	5.0	( <sup>1</sup> )	1.0

<sup>1</sup> Unknown

#### QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

##### NOAA—NOAA CORPS

*Question.* Attached is an article which proposes that the NOAA Corps be disbanded. For the record, please comment on this recommendation, and on the four points raised in the first column of the second page. In addition, please comment on the allegation that the fleet modernization plan is a "NOAA Corps Perpetuation Plan".

*Answer.* We do not agree with the article's proposal. The NOAA Corps is a unique NOAA asset and should not be disbanded. The NOAA Corps has done an outstanding job of maintaining and operating the fleet of ships and aircraft. This is demonstrated by their ability to meet cruise objectives, a superb safety record, and the fact that the vessels are being operated long past their expected life.

In addition, NOAA Corps officers serve all components of NOAA where their broad knowledge, developed through rotational assignments, provides a valuable

balancing of scientific, technical, administrative, and managerial skills to apply wherever they are assigned. Their technical and geographical mobility has served NOAA well and will continue to do so in the future.

With regard to the four points raised in the article, below we have listed the assertion and our reaction:

*Point No. 1.*—Having officers serve as both engineers/scientists and sailors no longer delivers practical advantages. On the contrary, modern research-ship manning strives for exceptionally competent and experienced mariners who can support the science and make dangerous work safer through professional seamanship. The severable work of ship driving and science is best accomplished by professionals in both fields working together.

With the advent of modern high speed satellite communications and transmittal of data, there is less need for senior scientists to be aboard ships during data collection. Ships' officers who are trained in the applicable science being conducted can be an invaluable resource in assisting and ensuring that high quality data collection occurs. This has long been the case on the hydrographic ships where the commanding officer is also the Chief Scientist. The desirability of this type of multidisciplinary skill will increase as the pressure to reduce federal employees becomes a reality as required by the recently passed Federal Workforce Restructuring Act of 1994, Public Law 103-226.

*Point No. 2.*—The Corps' quasi-military structure is absurd in an organization without a combat mission, complete military structure, or military discipline.

The NOAA Corps is one of the nation's seven uniformed services. It is not a military service and does not pretend to be (in this regard, it is similar to the Public Health Service Commissioned Corps). The rank structure reflects the NOAA Corps' history and its ability to be rapidly assimilated into the military services to perform scientific missions in times of war.

*Point No. 3.*—The corps has consistently rejected the experience of other ship operators as well as the findings of studies indicating that many of its marine needs could be satisfied at far lower cost.

The NOAA Corps has for several years proposed that a portion of NOAA's mission requiring ships be satisfied by chartering of vessels. As part of the National Performance Review (NPR) recommendations NOAA will be chartering vessels to provide a better understanding of the role which the private sector can play in fulfilling NOAA's requirements.

*Point No. 4.*—Although modern ships operate safely with smaller crews and a smaller fleet is NOAA's goal, a 1990 internal NOAA study recommended an increase in corps size to at least 595 persons.

The size of the NOAA Corps is limited by law to 439. The NOAA Corps has consistently operated far below that level and has no plans to increase the authorized level beyond 439.

With regard to the article's allegation that the Fleet Modernization Plan is a "NOAA Corps Perpetuation Plan", this allegation is untrue. The NOAA Corps has taken steps to avoid undue influence, or perception thereof, of the fleet modernization process. An example of this is the formation of the FRAM Review Board composed of the NOAA Assistant Administrators. NOAA's Fleet Modernization Plan is a reflection of the need to provide sea-going data collection platforms in order to carry out NOAA's missions. The plan has been subjected to intense scrutiny by numerous levels within NOAA, the Department of Commerce, and the Office of Management and Budget, as well as other government agencies. The plan shows the time phasing required to continue NOAA's sea-going capability. Further, any new ship acquisition decision will be subjected to an economic analysis to determine the most cost effective method of acquiring and operating the vessel.

#### NOAA—INCREASE IN BUDGET REQUEST

*Question.* Dr. Baker, in your statement you mention that your budget request is basically unchanged from 1994. That may be true in terms of new budget authority; indeed, budget authority is down by almost \$32 million for NOAA as a whole.

However, new outlays would increase by \$100 million, since the budget shifts funds from several of your low outlay accounts to the main operational account.

If we are constrained to hold NOAA to a freeze in outlays for 1995, what impact would this have on the agency?

*Answer.* If NOAA was required to freeze outlays in fiscal year 1995, using the figure \$100 million included above, the comparative loss of Budget Authority in terms of the Operations Research and Facilities outlay rate of 57 percent would be in excess of \$176 million. The remaining available "new" Budget Authority would not even fund the increases required to maintain the pace of the NWS Modernization.

This loss of "new" Budget Authority would: require NOAA to stretch out the modernization effort, increasing the cumulative costs; force a gap in both Polar and GOES Satellite coverage; leave NOAA unable to meet mandated living marine resource statutes; leave the newly designated Marine Sanctuaries unfunded or reduce funding to all Sanctuaries; reduce NOAA involvement in the Government-wide Global Change and High Performance Computing and Communications Initiatives; eliminate funding for GLOBE and Health of the Atmosphere; and, result in reduced operations and services due to shortfalls in some base programs.

*Question.* For the record, please provide the Committee with a list of program reductions from the 1995 request that are sufficient to freeze NOAA outlays at the 1994 level.

Fiscal year 1994 outlays .....	\$1,010,400,000
Fiscal year 1995 outlays .....	1,110,751,000

*Answer.* As noted above, the impact of such a cut to budget authority, would require NOAA to rethink its entire budget submission, including the possibility of eliminating a significant number of additional programs. Given the list of impacts provided to answer the previous question, I would welcome the Committee's input on this issue.

#### NOAA—NATIONAL PERFORMANCE REVIEW SAVINGS

*Question.* The National Performance Review proposes that the civilian weather satellite program, run by the National Oceanic and Atmospheric Administration, be consolidated with the weather satellite program of the Defense department, which is run by the Air Force.

The National Performance Review estimates savings from this consolidation to be \$300 million.

What is the status of this recommendation?

*Answer.* The Report on Polar Convergence prepared by the Office of Technology Policy, was unveiled at a White House on May 10. Plans were announced to converge DOD's Defense Meteorological Satellite Program (DMSP) of the Department of Defense and the NOAA Polar-orbiting Operational Environmental Satellite (POES) system into a single operational environmental satellite system. In addition the converged operational program will incorporate appropriate aspects of NASA's Earth Observing System technologies.

Under the directive, NOAA was named lead agency for integrating the converged system, for satellite operations, and for the interface with national and international civilian users. DOD will have responsibility for the program's acquisitions, command and control, and launch and systems integration. NASA will be responsible for facilitating the development and incorporation of new cost-effective technologies that will enhance the capabilities of the converged system. The joint office to manage the system is to be set up by October, although the two operations will not be completely combined until 2004.

The new system is expected to reduce duplication of efforts in meeting common requirements while satisfying the unique requirements of the civil and national security communities. Convergence is expected to save an estimated \$300 million by the year 2000, through elimination of dual planning and development programs, with additional savings of more than \$1 billion in the following 10 to 15 years. The converged system will continue the open distribution of environmental data and accommodate international cooperation.

In addition, the European space Earth observation partners were invited to explore incorporating the European METOP polar satellite series into the converged system, assuming U.S. mission requirements can be met.

*Question.* Are the savings estimates accurate? If so, will the savings accrue to the Air Force or to the National Oceanic and Atmospheric Administration?

*Answer.* An accurate representation of any savings (cost avoidance) associated with this effort would only be possible after any plan laid out in the study report was subjected to phase A definition studies of the projected hardware and software costs of the converged system.

How the system will be budgeted for is still under consideration. The resolution of this issue will determine how the savings will be captured.

*Question.* Please provide for the record the estimated savings and costs of consolidation for both the Air Force and the National Oceanic and Atmospheric Administration from fiscal years 1995 through 2000.

*Answer.* Detailed information, including a preliminary estimation of the projected cost savings/avoidance should be addressed in the Implementation Plan.

## NOAA—GLOBE PROGRAM

*Question.* The 1995 budget request includes \$7 million to initiate something called the "GLOBE" program, or "Global Learning and Observations to Benefit the Environment". My understanding is that this program would involve using school children to collect environmental observations. Specifically, how would the funds be used in 1995?

*Answer.* The GLOBE Program enables school children to monitor the global environment by making carefully selected environmental observations near their school and sharing that data with other children throughout the world and with the world's environmental scientists. As a result, the scientific understanding of the Earth will be increased by use of a dense worldwide network of schools to augment current observations, and the collective awareness of individuals throughout the world concerning the environment and the impacts of human activities on it will be substantially enhanced.

In fiscal year 1995, the requested NOAA funding for GLOBE will be used for program planning, system hardware design and test, educational design, experiment design and implementation, software development, training material development, and development of a prototype central GLOBE data ingest and analysis system.

*Question.* How scientifically valid are observations collected by school children?

*Answer.* Because of the potentially large number of observations, there is a statistical effect which permits scientists to extract meaningful results. In addition, there will be quality control tests and checks on the data-taking.

*Question.* Given the priorities for funding within NOAA, why is this program being given special consideration?

*Answer.* The GLOBE program is not being given special consideration. It is in NOAA's operating mission to monitor and study the environment. This program is an excellent addition to the NOAA's mission.

*Question.* Has NOAA obligated funds for this program in fiscal year 1994? If so, how much? If so, why has no reprogramming been submitted to the Committee, since section 605 of the Commerce-Justice-State Act requires notifications for reprogrammings which "create new programs?"

*Answer.* NOAA plans to obligate less than \$500,000 for this program in fiscal year 1994. This will be part of an anticipated NOAA-wide reprogramming/transfer notification.

## NOAA—WIND PROFILER DEMONSTRATION NETWORK

*Question.* NOAA is proposing a decrease of \$4.3 million associated with the wind profiler demonstration network. Wind profilers are unmanned, micro-wave sounding units that continuously monitor wind speeds at various altitudes. They take the place of weather balloons, which provide intermittent coverage of wind speeds in the upper atmosphere.

The wind profiler network is centered in Kansas, but several units are located in New Mexico.

Why is this program being proposed for termination?

*Answer.* While both profilers and radiosondes measure wind, wind profilers cannot take the place of weather balloons, which also measure moisture and temperature, in addition to tropospheric and stratospheric winds. By the end of fiscal year 1994, this project which was to demonstrate the effectiveness of the wind profilers in the prediction of weather, will be completed. The Wind Profiler Demonstration Network (WPDN) consists of 30 profilers located in 16 central U.S. states, one in Alaska, and one in California. Based on the data gathered during its demonstration, NOAA will evaluate whether an "operational" system of wind profilers across the nation be initiated as part of an integrated upper air observation network. Since such a network will be a significant investment, we need to be sure that its benefits warrant the investment and, if it is implemented, that it is done in the most cost effective manner.

*Question.* Where and how will weather stations in the affected areas receive comparable information if the system is shut down?

*Answer.* Although hourly upper air wind observations provided by the Wind Profiler Demonstration Network (WPDN) will be lost for operational forecasts, similar data will be provided twice daily to the affected stations by the current weather balloon program.

## QUESTIONS SUBMITTED BY SENATOR MARK O. HATFIELD

## MITCHELL ACT HATCHERIES

*Question.* Dr. Baker, are you aware that the NMFS office with primary responsibility for Pacific Northwest Salmon is funded with Mitchell Act Hatchery funding? And if your request is approved, no funds would be available for these NMFS employees?

*Answer.* Yes, I am aware that the NMFS office is currently funded with Mitchell Act Hatchery funding and that the fiscal year 1995 Budget had proposed to discontinue the funding of Columbia River hatchery operations from NOAA Appropriations. Funding to operate the hatcheries was to be provided through a rate increase by BPA of less than \$1 per household.

Since the submission of the budget document, we reconsidered this proposal. As a result of the salmon crisis in the Pacific Northwest, NOAA, within the fiscal year 1995 budget request of \$281 million for NMFS, will seek to shift resources to continue operations of the Columbia River Hatcheries.

*Question.* By transferring this account to the ratepayers and BPA, was it your intention to have BPA pay the salaries of these NMFS employees?

*Answer.* Yes, our original proposal was that BPA (ratepayers) pay for both NMFS costs and funds provided to States and the U.S. Fish and Wildlife Service for the operation and maintenance of the Columbia River hatcheries. As stated in the previous answer, NOAA, within the fiscal year 1995 budget request of \$281 million for NMFS, will seek to shift resources to continue operations of the Columbia River Hatcheries.

## FLEET MODERNIZATION

*Question.* On a different subject, in developing your agency's ship building program, do you solicit user needs from outside your agency? If so, who have you been working with on this program?

*Answer.* The primary purpose of NOAA's Fleet Replacement and Modernization effort is to meet the needs of NOAA's fisheries research and assessment, nautical charting, oceanographic and atmospheric research and environmental monitoring programs. We do exchange information with other federal users through the former Subcommittee on Federal Coordination of the Committee on Earth and Environmental Sciences which is being reformed under the Committee on Environmental and Natural Resources Research. We also exchange information with university users through the University National Laboratory System. NOAA is working directly with the United States Geological Survey (USGS) in their fleet modernization effort and assisted USGS in acquiring a surplus Navy T-AGOS surveillance ship. We are also working with the Environmental Protection Agency as they are assessing their fleet.

NOAA conducted an Ocean Fleet Modernization Study before beginning our program to modernize the fleet. The study included participants from other federal agencies and the university community as well as NOAA.

## COLUMBIA RIVER BASIN

*Question.* There is significant research being conducted in the Columbia River Basin on issues affecting threatened and endangered salmon. Please provide the Subcommittee with a brief description of your research efforts in the following subject areas (if other Federal or state agencies are involved, please provide that information as well):

- (a) Computer modeling of water velocity through the network of dams and reservoirs on the Columbia and Snake Rivers.
- (b) Research on various river management regimes that will affect migrating juvenile salmon.
- (c) The effect of various flow regimes on salmon and resident fish.
- (d) Natural streamflow characteristics of major tributaries and headwater streams in the Basin.
- (e) The effect of stream temperature on salmon survival, and what degree changes in stream temperature are possible in the Basin.
- (f) The original characteristics of water velocity, water temperature, river channels, and salmon survival in the Basin prior to construction of the Federal dams.
- (g) The additional data needed to allow ecosystem management of aquatic and terrestrial ecosystems.
- (h) Identification of toxic contaminants currently affecting the Basin.
- (i) The sources, causes, transport rates, and effects of nutrients on the ecosystem.

Answer. (a) The National Marine Fisheries Service (NMFS) conducts no research in the area of computer modeling of water velocity through the network of dams and reservoirs on the Columbia and Snake Rivers.

(b) NMFS, in collaboration with the U.S. Army Corps of Engineers and the Bonneville Power Administration, conducts substantial research addressing the following fish passage issues:

(1) The potential of juvenile fish transportation to improve survival of Pacific salmon and steelhead in the Columbia River Basin. These are ongoing studies to better characterize transport benefits under different river flow conditions.

(2) The effectiveness of different types of submersible traveling screens in preventing juvenile fish from passing dams via turbines where high mortalities occur. Multiple screen sizes and screening materials are evaluated; the goal is to optimize fish passage efficiency, while minimizing descaling and mortality of fish being diverted.

(3) Assessment of the direct and indirect mortality of juvenile salmon passing dams via different passage routes, including turbines, spillways, and juvenile fish bypass systems. On a site-specific basis, these data can be used to modify dam operations to improve overall dam passage survival of juvenile fish.

(4) Direct measurement of survival of juvenile salmon and steelhead passing through Snake River dams and reservoirs. These studies utilize passive integrated transponder (PIT) tags and PIT-tag detectors at dams to determine passage survival of individually marked fish. The results of these studies will serve as a baseline for comparisons to survivals measured during tests of reservoir drawdown.

(5) Radio tracking of upstream migrating adult salmon and steelhead to determine optimal dam passage conditions. Conditions such as fish-ladder entrance flows, water temperatures, spill patterns, and powerhouse operating priorities all influence the rate of upstream passage. These studies serve to identify best passage conditions.

(c) Two major studies are in progress at the NMFS that address the effect of various flow regimes on salmon and resident fish.

(1) The effects of air supersaturated river water on juvenile and adult salmon and steelhead, and on selected resident aquatic organisms of the Columbia and Snake Rivers. These investigations monitor the prevalence and impact of gas bubble disease on Columbia River Basin biota. High levels of spill that often accompany high flows at Columbia and Snake River dams can lead to the supersaturation of river water up to 140 percent.

These levels can be directly lethal to migrating salmon and other aquatic species.

(2) The study described in answer b(4) (Direct measurement of survival of juvenile salmon and steelhead passing through Snake River dams and reservoirs) will, in the long term, address and define the relationship between river flow and juvenile fish survival through the reservoirs and dams of the Columbia and Snake Rivers. Multiple years of data collection will allow correlation of direct measures of juvenile fish survival to flow velocity.

(d) NMFS conducts no research in the area of natural streamflow characteristics of major tributaries and headwater streams in the basin.

(e) The effects of temperature on upstream passage of adult salmon and steelhead are factors measured in the radio-tracking studies described in answer (b)5 above.

(f) NMFS activities in measuring the original characteristics of water velocity, water temperature, river channels, and salmon survival in the Basin prior to construction of the Federal dams have been limited to specific evaluations conducted in status reviews of selected stocks petitioned for listing under the ESA. In the Columbia River Basin, these have been conducted for Snake River spring, summer, and fall chinook salmon, Snake River sockeye salmon, mid-Columbia River summer chinook salmon, and lower Columbia River coho salmon. The primary foci of these activities have been to establish historical abundance and distribution relative to current abundance and distribution.

(g) The NOAA Coastal Ocean Management, Planning and Assessment System (COMPAS) sponsored by the Coastal Ocean Program is designed to address resource managers needs for information management. COMPAS integrates NOAA and state information with easy-to-use query, mapping, and analytical capabilities. In Oregon, the system has been under development for the last two years. All the information included in this system will meet information needs for addressing non-point source pollution and shoreland management issues.

NOAA is also working to quantify changes in areal extent of wetlands and adjacent uplands. This work is critical in linking land-based human activities to productivity. NOAA's Coastal Ocean Program, through its Coastal-Change Analysis Program (C-CAP), is helping to develop the tools and the scientific information to monitor and understand changes in wetlands and adjacent uplands and to relate these to impacts on living marine resources. The Oregon regional project in part addresses

the lower Columbia River and Tillamook Bay in which protection of salmon stocks is a critical objective of the mapping. Oregon Coastal Zone Management Program, as an outgrowth of the mapping of Columbia River Estuary, is planning to test the C-CAP protocol for updating habitat maps for local water bodies. Management of these water bodies is based on habitat type and extent.

NOAA's Coastal Ocean Program is also funding a series of regional environmental valuation workshops to acquaint Federal, state, and local resource managers, through use of regional case studies as a teaching technique, with the tools available for valuing resources under their stewardship. NOAA is funding one of these workshops in Newport, OR, to be held in early October.

(h) NMFS previously identified an adult salmon passage problem associated with high concentrations of fluoride in an aluminum plant effluent discharged near John Day Dam on the Columbia River. New restrictions on fluoride discharge imposed by the Washington Department of Ecology have largely eliminated the problem.

The NOAA Coastal Ocean Program's CoastWatch project distributes sea surface temperature images and other environmental data to researchers, state public health managers, and federal and state resource managers in the Northwest to facilitate the identification of potential harmful algal bloom conditions, including those organisms responsible for domoic acid poisoning and salmon kills. CoastWatch data users investigating algal toxicity include the FDA Seafood Division, the Oregon Department of Agriculture, and the University of Washington.

Studies funded by the City of Portland have found high levels of toxic chemicals in sediment samples from Portland's Columbia Slough near the Columbia River. Because juvenile chinook salmon are among the most abundant species in the Columbia Slough system during spring, there is a potential for uptake of toxic contaminants by these species. No studies are conducted with this species in Columbia Slough, but NMFS has documented a variety of adverse biological effects (e.g., impaired immunocompetence and growth) in juvenile chinook salmon from an urban estuary in Puget Sound with similar levels of the same suites of toxic chemicals.

The NOAA Coastal Ocean Program also supports related research efforts in the area of toxic chemical contaminants that will augment, integrate, and expand the ongoing efforts of the National Status and Trends Program and the research efforts within the Environmental Conservation Division of the NMFS Northwest Fisheries Center. A series of bioeffects field studies was initiated in fiscal year 1990 to provide estimates of the magnitude and extent of appreciable ecological degradation in coastal areas resulting from exposure to anthropogenic toxic materials. These bioeffects surveys include analyses to determine contaminant exposure, induced stress, reproductive impairment, and genetic damage in important fish species. Although the Columbia River estuary is not among the current six study sites, the South Carolina study starting this year will measure bioeffects of toxics in sediments, shellfish, and finfish in five coastal estuaries, including the Savannah River estuary. Like the Columbia River, the Savannah River is the site of a long-standing, operational defense nuclear reactor.

(i) Although NOAA currently conducts no research or monitoring in the area of sources, causes, transport rates, and effects of nutrients specifically on the Columbia River Basin ecosystem. NOAA's Coastal Ocean Program is conducting research of this type in another region of the U.S. which can be used to develop an understanding of the effects of nutrients in the Columbia River ecosystem.

The Nutrient Enhanced Coastal Ocean Productivity (NECOP) project is a five-year study on the physical, chemical, biological, and geological processes that relate to anthropogenic nutrient enrichment and productivity in the vicinity of the Mississippi/Atchafalaya River outflows, an area receiving the highest river born nutrient loading in the coastal U.S., and in which seasonal bottom water hypoxia occurs. The project includes studies of the variables and rates that control primary production and hypoxia development, studies of the sediment record to understand the frequency and duration of hypoxia in the recent past, and a water quality model that is being used to provide formal load reduction predictions.

In addition, the Oregon Department of Fisheries and Wildlife is using the Coastal Ocean Program's CoastWatch imagery to monitor coastal circulation patterns and the Columbia River plume. This information is used as input to fish stock predictions and distribution models. Future research under consideration is to investigate the relationship between salmon catch and sea surface temperature features.

**TECHNOLOGY ADMINISTRATION**

**STATEMENTS OF:**

**MARY L. GOOD, UNDER SECRETARY OF COMMERCE FOR TECHNOLOGY, TECHNOLOGY ADMINISTRATION**  
**ARATI PRABHAKAR, DIRECTOR, NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY**

**ACCOMPANIED BY:**

**GRAHAM R. MITCHELL, ASSISTANT SECRETARY FOR TECHNOLOGY POLICY**  
**DONALD R. JOHNSON, DIRECTOR, NATIONAL TECHNICAL INFORMATION SERVICE**  
**RAYMOND KAMMER, DEPUTY DIRECTOR, NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY**  
**THOMAS A. GARY, BUDGET OFFICER, NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY**  
**KAREN L. NASON, BUDGET OFFICER, TECHNOLOGY ADMINISTRATION**  
**FIONA McANALLY, OFFICE OF BUDGET, DEPARTMENT OF COMMERCE**

**PREPARED STATEMENT**

Senator HOLLINGS. We have got to have a little order now, please. The subcommittee will now hear testimony regarding the Department of Commerce's technology program, including the National Institute of Standards and Technology or NIST. We will hear first from Dr. Mary Lowe Good, the Under Secretary for Technology, and then from Arati Prabhakar, the Director of the National Institute of Standards and Technology.

For fiscal year 1995, the Commerce Department has requested \$964.3 million for technology programs, an increase of \$438.4 million over current levels. Of this amount, \$935 million is for the National Institute of Standards and Technology.

Under Secretary Good, we welcome you and Director Prabhakar, and I thank you for your professionalism in at least giving me some integrity in my arguments when we got into the political wrangle over technology. That was an unfortunate diversion, but in any event your objectivity and professionalism I think helped immeasurably, and I wanted to recognize that.

We will hear first from you, Secretary Good. The entire statement will be included in the record and you can deliver it or highlight it as you wish.

[The statement follows:]

**STATEMENT OF MARY L. GOOD**

Mr. Chairman and members of the Subcommittee, I am delighted to appear before you today to present the President's budget request for the Technology Administration for fiscal year 1995. With me are Deputy Under Secretary Gary Bachula, Assistant Secretary for Technology Policy Graham Mitchell, National Institute of

Standards and Technology Director Arati Prabhakar, and National Technical Information Service Director Donald Johnson.

I take great pride in this team. I believe the Subcommittee will agree with me that I have been blessed with excellent leadership in the Technology Administration. This team is fully prepared to manage the civilian technology program outlined in the President's budget request. I would like to give you an overview of that request with some specifics pertaining to the Office of the Under Secretary, the Office of Technology Policy, and NTIS. Dr. Prabhakar will present the details for the largest portion of our request, that of the National Institute of Standards and Technology.

Before I begin, Mr. Chairman, I want to thank you on behalf of Secretary Brown and the entire Clinton Administration for your leadership and hard work in support of the National Competitiveness Act. It truly makes industry and government partners in the quest for technological leadership and for the jobs and economic security that should be the birthright of all Americans.

For fiscal year 1995, the Clinton Administration is requesting \$964.3 million for all of TA's programs, an increase of about \$438.4 million over the \$526 million appropriated in fiscal year 1994. The request amounts to only about 1.3 percent of the \$73 billion budgeted for federal R&D and related facilities.

This represents a continuation of the Clinton Administration's ongoing efforts to achieve parity between the Government's military and civilian R&D investments, to increase investment in applied and developmental research while also maintaining our commitment to basic research, and to channel investment into those programs that have proven their worth and that have demonstrated their ability to contribute to the nation's technological well-being. It will help the Technology Administration assess the many factors that can affect the climate for innovation and commercialization that go beyond technical issues, such as tax, antitrust, and patent policies, management practices, and others.

The budget request reflects certain specific lessons that the nation has learned over the past twenty years.

First, there can no longer be debate over the importance of technology to our nation's economy. As the President noted in the Economic Report submitted to Congress last month, advances in technical know-how have accounted for more than 25 percent of America's economic growth since the end of World War II.

Second, the investments most important to the economy and deserving of public support are those that generate spillover benefits for interconnected sectors and that will drive the next generation of R&D. A nation such as ours with a rich science and technology base should seek to remain strong in as many of the cross-cutting technologies of the future as resources permit. Prudent asset managers, such as mutual fund managers, will typically diversify their investments to spread risk. That is exactly the way we should manage our national technology portfolio.

Third, these investments won't just happen by themselves. Advanced technologies today increasingly involve interconnected disciplines, require managers and workers to think creatively, entail massive investment, and can impact many different industries. The potential benefits to the economy can far exceed what a single innovator, firm, or even industry can hope to recover. To obtain these broad benefits, we must strive to develop many different industrial applications of a given technology, much as the Japanese have sought to do through their keiretsu system.

Fourth, notwithstanding the need for public support, throwing federal dollars at technology problems won't solve them. What is needed is a way of ensuring that government's investments mesh with, and leverage, industry's own R&D agenda and are closely coordinated with industry's own investment patterns.

Fifth, investments in advanced technologies must be complemented by investments in production, or manufacturing, technology. Everybody instinctively understands the importance of being able to turn out quality products quickly and efficiently and, what's more, of customizing them to take advantage of niche markets. But that is literally just the tip of the iceberg. What is often unappreciated is the relationship between manufacturing and innovation and the diffusion of new technology.

A competitor who wants to improve its product but can only do so by shutting down the production line and retooling can never win against a rival who, by taking advantage of modern manufacturing methods and practices, can innovate by making constant, incremental improvements, all the while keeping the production lines fully operational. Old-fashioned competitors will be resisting change and will be performing cost-benefit studies while their more nimble rivals will be introducing newer, constantly improved products.

And sixth, in this global village we all inhabit, in this world of accelerated technological advancement that puts a premium on getting to the market first, there is

no commodity more precious than timely information about technological developments, new management practices, market opportunities, your strength relative to that of your competitors, and similar factors that can make the difference between success and failure.

The President's budget reflects each and every one of these realities.

For my own office and that of the Assistant Secretary for Technology Policy, the Administration is requesting \$11.3 million. The President believes that the Technology Administration can become a forceful and dynamic agent for designing and implementing, in partnership with industry, the vital manufacturing and technology strategies needed to thrive in an increasingly competitive world economy. That's a vision I share and why I feel privileged to have been asked to serve as Under Secretary at this time. However, I can't do the job without reasonable resources.

The increased funding will enable us to begin the first of what I hope will become an annual assessment of the health of the U.S. manufacturing base. Federal policymakers and industry itself must have a clear sense of the comparative strength of the manufacturing sector and the extent to which it is or is not adopting modern manufacturing practices.

To make this point as clear as I know how, we often hear people applaud U.S. success in developing digital HDTV who do not really appreciate that producing such TVs in the United States will require mass production skills that produce a quality, cost-effective product. Manufacturing weakness was a major contributor to our loss of the consumer electronics industry. I think the U.S. ought to be the prime beneficiary of its own ingenuity, but without first rate manufacturing practices, that cannot be guaranteed.

And that's not the only instance where relative evaluations are called for. The increased funding will also permit us to begin a series of industry outreach activities aimed at developing benchmarks for assessing the performance of several strategic industries and sectors. National titles mean nothing when you are competing in the Olympics—we have to know how we stack up against the best the world has to offer.

In a related initiative, the Technology Administration will develop plans for encouraging firms in strategic industries to come together to set goals, to identify barriers that impede the achievement of those goals, and to tell federal policymakers how we can help. Our program should reflect these insights from our industrial partners and the development of success measurements and assessments must include appropriate industry-verified success standards.

The increased funding will also support me directly in my role as chair of the committee coordinating federal participation in the Partnership for a New Generation of Vehicles initiative, as chair of the new Civilian Industrial Technology Committee of the National Science and Technology Council, and as a principal coordinator of the Department of Commerce's Advanced Civilian Technology Strategy. That Strategy outlines Secretary Brown's comprehensive vision for bringing the full resources of the Department to bear in support of job creation and economic growth.

And last, that increase will permit the Office of Technology Policy to expand its activities aimed at improving access by U.S. industry to the best foreign science and technology. The increase will permit us to expand the successful U.S.-Japan Technology Fellowship Program, increase the quantity and quality of Japanese technical information available here and begin planning similar programs for the Pacific Rim and European Union, serve as secretariat to the new U.S.-Israel S&T Commission, and help ensure that U.S. interests are fully protected in all multinational and bilateral science and technology negotiations.

Improving access to science and technology brings me to another major component of the TA budget: an \$18 million request to support three initiatives developed by the National Technical Information Service that are aimed at expediting the transition to full electronic dissemination of scientific, technical and other government information to all users.

In 1992 Congress made three major interrelated changes to NTIS' charter. It told us to begin plans for developing an online locator system to provide effective and comprehensive access to Government information. It also told federal agencies to make sure NTIS got copies of all of their S&T publications. Finally, it made the production and dissemination of information products in electronic format a specific subset of NTIS' broader statutory mandate to implement new methods or media for disseminating information.

As a result we have established an electronic marketplace known as FedWorld through which the private sector can locate and order federal information. We estimate that it will serve 900,000 callers this year who will download 600,000 files. Given the short time that this system has been operational, we feel this will be a remarkable achievement. However, we are unable to grow the system on earned rev-

venues fast enough to meet the demand. We also have in place final regulations that should greatly expand NTIS' inventory and its ability to get current information out to consumers. However, not all of that information comes to us in electronic or other formats that our customers need or can use.

Accordingly, the Administration is requesting a one-time capital investment of \$6 million to allow us to gain additional capacity and other enhancements that will permit FedWorld to serve the tens of thousands of daily callers that a fully operational system ought to be able to handle. We are also requesting \$6 million to enable NTIS to convert information from whatever form it is received into electronic or other format desired by individual consumers. We also need to provide support to other federal agencies, especially those in the Department of Commerce, seeking to create electronic information products. And last, but perhaps most important, we are requesting \$6 million for grants to be awarded through a competitive process to federal depository libraries nationwide to build their capability to access federal information in electronic form.

NTIS operates as a business and has already reinvested a portion of its own revenue stream to develop the basis for the capabilities proposed here. It simply cannot generate revenue fast enough to bring about a government-wide transition to electronic communication at the rapid rate that our customers demand. Like any business, we need investment capital to make this happen in a timely fashion. I want to emphasize that this is indeed an investment in the future and that the requested funds are not a means of supplementing regular operations.

The biggest portion of the budget by far is the \$935 million the President is requesting for the National Institute of Standards and Technology, an increase of almost \$415 million. Dr. Prabhakar will give you the details of this request. Let me just point out that NIST has developed proven approaches for working with industry, has a comprehensive 10-year plan in place for the construction and renovation of its plant, has thoroughly planned for the revitalization of its in-house laboratory programs, and has developed and refined the important extramural programs that account for about two-thirds of the increase. As a result, it has the management and evaluation systems in place that will enable it to scale up its programs or otherwise expend these funds with minimal bureaucratic overhead and without jeopardizing the high quality of its activities.

In conclusion, Mr. Chairman, this budget request demonstrates President Clinton's and Secretary Brown's confidence in the Technology Administration to improve Government's ability to assist industry in technology development and commercialization and in obtaining access to vital scientific and technical information from federal and foreign sources.

We are committed to making these programs the standard by which successful Federal technology activities are measured. Our goal is to provide the innovation, creativity, performance and leadership necessary for the creation of a civilian technology infrastructure that will allow us to win the global economic competition as successfully as we won the Cold War. This environment is critical to our development of new industries, maintenance of market share, and expanded exports that translate into jobs and an improved standard of living.

Thank you for this opportunity to discuss our budget and our goals for 1995. After Dr. Prabhakar's testimony I will be happy to answer any of your questions.

Dr. GOOD. Thank you, Mr. Chairman.

Senator HOLLINGS. Excuse me, did you want to say something?

Senator DOMENICI. No, sir, Mr. Chairman, I will make it later.

Dr. GOOD. I appreciate your keeping our statement in the record, and in the interest of time I will just try to highlight a few things, if I might.

First of all, the Technology Administration, as you know, has the Office of the Under Secretary and the Office of Technology Policy, and Dr. Graham Mitchell, who is the Assistant Secretary for the Office of Technology Policy, is with me today. He is now confirmed and working full time. The best we can tell, by shifting from a consultant to a full-time employee, all it meant is that he lost \$5,000 in salary. But he did not resent that, and he is working very hard at the new office.

Also, I believe that Don Johnson is still with us; he is the Director of NTIS. And Dr. Prabhakar, as you know, is the Director of

NIST. So these are the segments that make up our budget and that we want to talk to you about today.

I do want to say, Mr. Chairman, that on behalf of Secretary Brown and the entire Clinton administration and particularly those of us in the Technology Administration, we do want to thank you for your work on the Competitiveness Act. It, in our view, really makes industry and government partners in this whole quest for technological leadership which we expect to translate into economic security in the time to come. So we really do appreciate your efforts on that, and we look forward to the conference committee and a good outcome.

As you know—you just looked at the numbers that we are requesting in 1995—we are asking for a large increase. I would remind you, though, if you look at the numbers in terms of percentages we are still only talking about 1.3 percent of the total R&D budget of the U.S. Government. So we think that this is a relatively small amount of money to be spending in what we believe is one of the bigger efforts in the economic competitiveness arena.

So what I would choose to do today is to speak to you briefly about the budget request for the Under Secretary's Office, the Office of Technology Policy, and the one-time request that we have for NTIS, and then Dr. Prabhakar will speak to you about the budget for NIST. And we will divide it up that way, if that is OK with the committee.

Senator HOLLINGS. Very good.

Dr. GOOD. With respect to the budget, in the Under Secretary's Office and the Office of Technology Policy, those two are budgeted together as a matter of history. The request for 1995 is for \$11.3 million, which is a significant increase over this year.

However, I think you understand that the Office of the Under Secretary of Technology in Commerce has been now given major responsibilities for the civilian technology programs within the Government and is helping to coordinate, through the Civilian Industrial Technology Committee, the efforts that we have not only in Commerce, but throughout the Government, where we really want to try to focus on how the Government can appropriately assist the industry in these R&D activities.

The Office of Technology Policy we are putting forward as a very front-running effort to do three or four really new things, which we believe are really very necessary today. One is that we think you need an annual assessment of the health of the U.S. manufacturing base. We are making decisions and asking for requests based on what that manufacturing base looks like.

We believe you need an update as to exactly what it is, how it is performing, and what its issues are. And one of the things we want to have by the September timeframe is a new, updated assessment of what the manufacturing base looks like, where it is focused, where it is going, and what effects some of our programs have had. We think that is a very important issue, and we would like to do that on an annual basis.

In addition to that, another big issue that the Office of Technology Policy is trying to accomplish: We already are looking at the benchmarking request. That was in Senate bill 4. We have begun to lay the plans to get that done effectively. What that is going to

entail is to look at the sector-specific industry segments we have and try to understand how they stack up not only in the United States, but also with the rest of the world.

To do that, one has to look at the individual components of those industry segments and understand how the good businesses are behaving as well as the bad businesses. It is not good enough to just look at the average. You need to understand what the spread is. Do we have some businesses that are performing extraordinarily well in their technology applications and some that are not? And, if we can understand the differences and benchmark that around the world, we think this makes a big difference in how we go about doing technology policy in the Government.

The last one is to beef up our international effort in OTP. OTP has the responsibility for reviewing all of the science and technology agreements that we have around the world. For example, the China S&T Commission is meeting right now. I am a member of that group, so I am playing hooky to be here, but you can tell where my priorities are. But we need to really understand the S&T agreements.

We feel in the Department of Commerce, that these S&T agreements should be structured so that they are advantageous to the United States. We need to look at them, understand where they are going. We need to be sure that if we are going to continue them, that we get as much out of them as we provide to the rest of the world. We think it is time to make these quid pro quo, and that is what we are in the process of doing. We are beginning to look at all of those.

Some of the programs that we started there look very good. The engineering program to send midlevel engineers to Japan, the Japanese manufacturing technology fellowship initiative, is going very well. We have about 30 people there. We will have a new class that will start hopefully in September. And so far the Japanese have responded as advertised. They have given us good assignments and good companies, and we are going to get some very good feedback. We will make a visit there the first week in June. We are going to actually visit some of them to be sure that these people have been given good assignments and then actually get a good view of what the Japanese manufacturing effort is all about. We want to continue that.

So the \$11 million that we are talking about here is what we believe is necessary to really make the Under Secretary's Office and the Office of Technology Policy a vital portion of the technology infrastructure within the Government to respond on these kind of issues and get us in good shape.

Last, I will spend just a few minutes talking about the \$18 million sort of one-time capital infusion that we have requested for NTIS. NTIS, as you know, in the last Congress was asked to make some major changes. The Congress asked for us to begin developing an online locator system, to provide effective and comprehensive access to Government information, particularly technical information, and the business information that is a part of that technology. It also assigned responsibility to all of the Federal agencies to make sure that NTIS got copies of all of the S&T publications, so that they are all in one place.

It also made the production and dissemination of information products in electronic format a specific subset of NTIS's broader statutory mandate. To do that, we established FedWorld, which is now up and running. We established that pretty much on a shoestring, with some of the moneys that were available from the sinking fund.

Interestingly enough, it is our estimate that there will be 900,000 callers on that FedWorld this year, and that we will download 600,000 files on that beginning system, which gives you an understanding of the pent-up demand that there was for that. The problem is we will not be able to grow that system as fast as that demand is going to drive us without adding some extra capital and some extra software development to deliver those kinds of products. So about \$6 million of that request is to upgrade FedWorld, to put it on a basis that really makes it very useful.

The second \$6 million is to provide some moneys to simply upgrade the entire apparatus for accepting technical information. Today we provide documents in electronic format, but when we receive documents from the rest of the Government, they can be in every format imaginable, both electronic and paper. We have to then convert that to a format that makes it compatible with the system.

So the other \$6 million is to really do two things. One is to get the equipment that will allow us to reformat those things so they can go up in an appropriate way. And second, to look at the other information systems within the Department of Commerce. In particular, things like the census, where we can help them and the other Government agencies do this in a more rational fashion. So \$12 million of the \$18 million is really to upgrade, one-half of it for FedWorld, and one-half of it to upgrade the operation in general.

The other \$6 million is requested to provide some competitive way to begin to help the depository libraries have access to these electronic systems, because many of them do not have in their own home bases the ability to access this data. So we would like to begin, at least. The \$6 million will clearly not provide that access to all of the depository libraries, but at least it will begin that.

So just very briefly, Mr. Chairman, that is the basis, and we would be happy to answer any kind of questions for that that you would like. That is the basis for the \$11 million or so for the Office of the Under Secretary and OTP, and the \$18 million in essentially one-time capital infusion for NTIS.

And I will let Dr. Prabhakar discuss the increases for NIST.

Senator HOLLINGS. Thank you.

Dr. PRABHAKAR. It is a pleasure to be here today to discuss with you our budgetary request of \$935 million for NIST. It is an increase of \$415 million. We recognize that in an extraordinarily tough budget year, this is a significant increase for NIST, and I think that it reflects, first of all, a very strong commitment on the part of the President and the Secretary of Commerce, the high priority that they assign to our programs. I think it also reflects the conviction of the American industry that these programs are an important part of our overall economic strategy as a Government.

All of these activities, of course, are building on the work in the Congress and, of course, the work in this Appropriations Committee has been critical in getting us to this point. And, Mr. Chairman, I would like to echo Dr. Good's comments about your leadership on Senate bill 4. I think that has been extremely valuable to us all, and we appreciate the battle that has been fought on that.

What I would like to do today is take a minute and provide a little bit of context for our work at NIST, and then spend most of my time describing to you how we are stepping up to the challenge of managing this kind of growth, how we are trying to build very effective and very fair technology programs.

As Dr. Good mentioned, our programs are only about 1 percent, 1.3 percent of total Federal R&D, so I would like to give you a little bit of a sense of where we believe we fit in to the overall picture. And I think that picture begins by recognizing that close to one-half of the R&D dollars in this country are provided by the Federal Government.

That is not new. That is something we have been doing for many years. Since the Second World War, of course, national security priorities influenced the focus on basic research, those are the concerns that have dominated the R&D investment. Today the world has changed. We recognize that with the end of the cold war, with shifts in global competition, that we need to start addressing some of the other needs in the Nation as we spend these Federal R&D dollars.

I find it quite instructive to look back over the last 40 or 50 years before we start changing, and see what came of those investments, for national security, in basic science. I personally find it very heartening, because I think, in fact, that we have now demonstrated in both of those cases that when the Federal Government makes a thoughtful, concerted, sustained investment and in an appropriate way works with the broader technical community, I think we can do fabulous things.

In fact, I think technology contributed to the end of the cold war. I think the reason we have the best science base in the world has been that sustained Federal support. So while our job today, focused on economic goals, is a significantly different job, I think we do have some existing proofs that the Federal Government can, in fact, make a big difference using R&D dollars as a tool.

NIST is just one part of the administration's overall strategy for shifting our Federal R&D investment to address the economic needs in the country. We are the part that deals with direct investment in civilian technology for economic growth. Today we are, as I mentioned, in the fiscal year 1995 request about 1.3 percent of Federal R&D. The President has proposed a plan that would build us by 1997 to about 2 percent of Federal R&D.

This, obviously, is a very aggressive growth for NIST as an organization. On the other hand, I think it is a highly appropriate level for this kind of direct investment. Out of all the \$70 billion that we spend on Federal R&D, to take 2 percent and dedicate it explicitly and exclusively to these needs of industry I would argue is really quite appropriate.

Let me turn to how we at NIST are stepping up to this challenge. I would like to sort of convey to you our management strategy,

which is very focused on delivering value. The first point, I think, that is critical is that we are building on proven approaches. We recently compiled a group of NIST industrial impact stories which I would like to offer for the record if I might, Mr. Chairman.

Senator HOLLINGS. It will be included.

[The information follows:]

#### NIST INDUSTRIAL IMPACT

Company: SDL Inc., San Jose, California.

Business: Producer of high-power semiconductor lasers and fiber optic components.

Number of Employees: 180.

Company: Xerox Corporation, Palo Alto Research Center, Palo Alto, California.

Business: Manufacturer of document processing technologies.

Number of Employees: 300.

There are few substitutes for an annual infusion of, say, \$1,400,000 for 5 years to ratchet up the research and development throttle. That is what happened to SDL Inc. and the Xerox Corp. beginning in September 1992, when their joint proposal to the Advanced Technology Program (ATP) for work on visible diode lasers and optical fiber components met with approval from a review panel at NIST, which runs the program for the Department of Commerce.

In less than 2 years since the ATP award, which is designed to support development of high-risk technologies that might enhance and spawn many other technologies, SDL has had three unexpectedly near-term spin-offs—new semiconductor-based laser products with wide-ranging applications that are now on the market, says Donald R. Scifres, SDL's president and CEO. The three products are laser diodes that emit red light directly at various powers without requiring a second laser for excitation, which is usually needed for high-power lasers. The company also is pushing forward to develop laser systems that can emit green and blue light, a much tougher technical challenge that is expected to open many more technological doors.

In the nearer term, applications for the red-laser products could range from surgery and an emerging light-based tumor treatment called photodynamic therapy to new laser-based cutting tools for manufacturers to high-speed color printing. It is that last possibility that provided the original impetus for SDL to join with Xerox Corp. and give the ATP a shot, and why green and blue lasers remain at the top of the to-do list. "We want to eventually use these types of lasers in high-speed color printing operations," says Neville Connell, director of the electronic materials lab at Xerox's Palo Alto Research Center.

The semiconductor laser market is as competitive as it gets. "If you don't accelerate your development, you fall behind your competition," Scifres says. The competition is getting stiffer now as high-technology firms around the world race for some of the newest trophies in the arena of optical components—those green and blue lasers. Together with the more mature technology of red lasers, these open up paths to higher capacity communications systems, new color displays, medical tools, and many other products.

The ATP awards are supposed to smooth the path from laboratory to marketplace and to post higher speed limits along the way. The program is designed so companies can leverage their own investment and commitment to higher risk, higher pay-off technologies with partial support from the government. In the case of SDL and Xerox, the ATP ideal seems to be working. Says Connell: "We now can get where we want to go twice as quickly." Secondly, he adds, the ATP competition "provided impetus to form an alliance with SDL and Stanford University," which is also contributing to the research effort. Scifres also credits the ATP award with strengthening his company's competitive position. "We were in catch-up mode and I think we have caught up and surpassed Europe and Japan," he says.

Scifres admits that his company probably would have developed one of the recently commercialized lasers without the ATP award.

Progress, however, would likely have been sluggish at best. As the funding started coming through, SDL hired four new people to their staff of 180, and as orders for the spin-off products came in, they hired even more for their production lines. As for the other two products, he says "they might never have happened without the ATP award."

Moreover, the three products are pure bonus for SDL since high-power lasers for printing are in the bull's-eye for the SDL/Xerox alliance. No complaints on this score, especially because the spin-offs keep spinning. In a letter last December to

NIST Director Arati Prabhakar, Scifres noted that another company was considering one of these spin-off lasers for its own products. No final word on that yet, but if an order is placed, Scifres noted in the letter, "it would represent SDL's highest volume order."

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Company: X-Ray Optical Systems Inc., Albany, New York.

Business: Start-up company specializing in lenses that focus X-rays and neutrons into beams for use in research, medical imaging and treatment, and manufacturing.

Number of Employees: 8.

If Lilliputians in the high-technology arena think big enough, they can get a shot at the big time. Just ask David Gibson, president of X-Ray Optical Systems Inc., and one of eight employees at the 3-year-old start-up in Albany, N.Y. The company is not out of the woods yet, Gibson says, but the path ahead looks downright inviting, in large part because of new types of collaborations with the federal research infrastructure.

The prime movers of the company are two physicists—David Gibson's father, Walter Gibson of the State University of New York at Albany, and Muradin Kumakhov of the I.V. Kurchatov Institute of Atomic Energy in Moscow. They had known each other for decades as professional peers and collaborators. Kumakhov and colleagues in Russia had been finding that arrays of tiny glass capillaries, when carefully bundled, seemed capable of focusing X-rays and neutrons.

Most scientists had long assumed that the ability to focus these types of radiation was a great idea that the Muse of Physics would make both irresistible and unreachable. That ability could mean everything from uniquely fine probes into the structure of matter to more powerful medical treatments to the means for making next-generation microprocessors. But lens materials mostly absorb, rather than transmit these types of radiation, and can hardly bend whatever radiation does get through.

Kumakhov made an end run around this seeming impasse. By making tiny glass capillaries with smooth interiors that bend gradually, X-rays and neutrons entering them would repeatedly graze off the walls like a stone skipping on water. When bundled, such tubes could take a diverging weakening beam of X-rays or neutrons emanating from a radiation source and redirect them into parallel beams or onto small intense spots.

Gibson senior and Kumakhov were themselves convinced that the lenses had astounding scientific and technological potential. Kumakhov and Russian colleagues had done some experiments with prototype lenses that supported the concept. To go farther at more than a snail's pace, though, they had to convince other scientists in the United States that they were onto something, and they had to find financial support for development.

To build an organization, they recruited David Gibson, an MIT educated mechanical engineer and business manager. He knew that nothing would happen unless external backing could be gotten and that the technology was too green to attract venture capital. So in the summer of 1990 when X-Ray Optical Systems (XOS) was being incorporated, he came across an article that mentioned the then fledgling Advanced Technology Program, administered by NIST. He read carefully. "My gut told me that this was a program designed for us," he recalls. "The Kumakhov lens was a high-risk nascent technology whose commercial payoff seemed very promising but that needed further development, just the kind of thing the ATP was created to support."

In 1991, they received word that their subsequent application for an ATP award had failed. Gibson surmises that the verdict followed naturally since the company did not yet have an infrastructure and its business strategy was incomplete. But the ATP experience had primed him to other possibilities in the government. The same year, XOS applied for and won two of the Department of Energy's Small Business Innovative Research grants. The momentum has only been building since.

A crucial part of that motion began also in early 1991 when the three-man company went on a 15-stop, cross-country dog-and-pony show to government labs equipped with accelerators, industrial users of X-rays, and academicians. Though they fielded some flak for their marketing bravado, they also turned some heads, including ones at NIST.

One payoff came through in December 1991, when XOS signed a Cooperative Research and Development Agreement (CRADA) with NIST. The goal of the CRADA is to develop neutron lenses that could help NIST in its mission of providing ever more accurate measurement capabilities for industry while helping XOS in its com-

mercialization mission. A few months later, the company learned that its second try for an ATP had met with success and would receive \$1,900,000 from the government in its part of a cost-sharing R&D agreement, in which XOS would have to come up with \$350,000 for indirect costs. In June, just as the ATP money started coming in, the company began working with NIST researchers on another project to develop lenses that could form parallel beams of X-rays. In September of 1993, XOS began work on another collaboration with NIST in which it would provide lenses to NIST researchers for real world microanalysis of samples. In exchange, XOS would learn about what was necessary for the optics to be successful in that use.

In December 1993, as a result of progress made during the CRADA, XOS shipped its first commercial lens to a very familiar customer, scientists at NIST's research reactor. It has exceeded expectations in preliminary tests, notes NIST research chemist Gregory Downing, who expects the lens to dramatically enhance NIST's analysis abilities and services as well as its collaborative efforts with other U.S. companies including Intel, CIDTEC, Westinghouse, Texas Instruments, and a consortium of companies developing synthetic diamond products.

The series of government grants and collaborations have provided XOS with access to equipment and experts tailor made to assess, develop, and validate the new technology, David Gibson says. "It has allowed us to develop applications that we would otherwise not have addressed," he adds. The ATP award and NIST technical capabilities also enabled XOS to act like a bigger company with more resources and personnel without actually having to invest in these before the technical risks were overcome. That hurdle trips up many start ups. The ATP award had an important spinoff too. When news got out that XOS had been a winner in their second ATP competition, the company was finally able to convince private investors that the risk was reasonable. The foundations for success seem to be in place, Gibson says. XOS may not be in Lilliput for long.

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Company: Thomson Berry Farms, Duluth, Minnesota.  
 Business: Manufacturer of jams, syrups, dressings, and vinegars.  
 Number of Employees: 20.

In less than 2 years, the business outlook for Thomson Berry Farms, a Duluth, Minn., manufacturer of jams, syrups, dressings, and vinegars, has changed from glum to glowing. A 50-percent increase in productivity and an anticipated 100-percent increase in sales can lead to that kind of transformation.

And, in turn, a boom in business can save jobs. To keep up with increasing demand, Thomson's management has retained all 20 positions in the company.

Some of the credit for the change in fortune goes to the NIST Upper Midwest Manufacturing Technology Center (MTC), which linked Thomson Berry Farms with the manufacturing expertise it needed and then served as technical adviser as the company revamped its processing operations.

Thomson's new management, which took over the company in 1992, recognized market opportunities for the company's specialty products, but it lacked experience in automated manufacturing. "My background is wholesale and retail food distribution," explains Paul Leonidas, Thomson's chairman and chief executive officer. "The only thing I knew about jam was that you put it on your toast in the morning."

By hooking up with a regional office of the Upper Midwest MTC, Thomson's management remedied this shortcoming. Using the services of an engineering consultant secured with the assistance of the MTC, the small company began to automate manual processes that drove up production costs and, in effect, were forcing Thomson to price its products out of the market. The engineering consultant designed a new plant layout, helped the company draft equipment specifications, and then located sources of that equipment.

The answers to Thomson's manufacturing needs already existed—in the form of used equipment. For an investment of \$32,000, the company secured jar-cooling equipment, conveyers, and a filling machine, all of which were incorporated into the new plant layout. The company estimates that, within a year, waste reduction and other cost savings will pay for the entire investment. "Our changes allowed us to cut our labor costs in half," without eliminating any jobs, explains Leonidas. "They also helped us go out and seek more business. We have almost quadrupled the production capabilities of the plant"—to more than 3.5 million units a year. "Plant improvements, together with tighter controls, have turned our company—in 1 year—into a profitable enterprise," he says.

In the year since it was established in August 1992, the Upper Midwest MTC, which is based in Minneapolis, provided services to nearly 1,100 small and medium-sized manufacturers. Though the center's principal customers are firms in the com-

puter, machinery, metal fabrication, and plastics and composites industries, the MTC serves a diverse clientele as the interaction with Thomson Berry Farms at-tests. And like Thomson, the vast majority (more than 80 percent) of Minnesota's 8,700 manufacturers employ fewer than 50 people. "Small businesses like ours need the kind of help you [MTC's] provide," says Leonidas, "because we don't have the resources of the larger companies."

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Company: Prime Tube Inc., Livonia, Michigan.  
 Business: Small automotive supplier.  
 Number of Employees: 45.

When the Chrysler Corp. recently pared its list of suppliers of tubular parts by more than 75 percent, one of the five survivors was Prime Tube Inc., a Livonia, Mich., manufacturer with a payroll of 45 people. To Prime Tube president Frank Firek, the selection served as solid evidence that several years of effort and more than \$100,000 invested in improving the company's operations and its products does, indeed, pay.

Many of the performance-enhancing changes undertaken by Prime Tube were originally spawned by a strategic assessment carried out with the help of a team of experts from the NIST Midwest Manufacturing Technology Center (MTC), based in nearby Ann Arbor. "Some of the programs resulting from that work with the MTC are a strong part of the reason we were chosen" as a tier-one supplier by Chrysler, Firek says.

Prime Tube is a repeat customer of the MTC, starting out as a participant in one of the center's continuous improvement user groups and later drawing on several technical services provided by the organization. In the user group—a self-help tool for small manufacturers—managers from Prime Tube and five other automotive suppliers met six times a year with a facilitator to address specific operational issues, share ideas and experiences, and track each others' progress on specific continuous improvement projects. One benefit of the interactions, according to Firek, was that it enforced a discipline on each company's efforts to improve.

Tapping the MTC's expertise, Prime Tube decided to undergo a comprehensive evaluation of its entire business and its current market. That assessment provided Firek and his managers with a thorough accounting of the company's strengths and weaknesses—in manufacturing, marketing, and other areas of the business—and it helped to better define the market for Prime Tube products. One aim of the evaluation, explains Ray Vander Bok of the Midwest MTC, is to help companies identify what steps they must take to "align themselves with their customers"; another is to give them a clear picture of how they stack up against their competition.

But the "real trick," Vander Bok explains, "is not the number of recommended actions for improvement, but identifying which ones to do first—the activities that will make the biggest difference. Small manufacturers are limited in resources and people. They have to focus on the areas where they will get the 'biggest bang for the buck.'"

Firek says his company intends to implement all of the recommended improvement actions, beginning with the ones that promise the biggest return on investment. Actions already taken—some with the assistance of Midwest MTC staff—include implementing a preventive maintenance program and an automated inspection system, reconfiguring the plant into work cells, and determining literacy requirements for all manufacturing jobs.

These measures are paying off. For example, scrap and rework has decreased by at least 50 percent, and the company has reduced its inventory by about 30 percent. These and other improvements are making Prime Tube more competitive, permitting it to pass cost savings on to customers.

Among automotive suppliers, Firek says, reducing costs without sacrificing quality has become an imperative for survival. Intense competition is squeezing profit margins and forcing companies like Prime Tube to sharpen their focus on markets and customers.

Largely because of a major customer's across-the-board moves to cut input costs, Prime Tube's sales dropped in the past year, Firek says. That decline might have been fatal if Prime Tube had not already been well into its program of continuous improvement.

"If we had not implemented the changes recommended by the MTC," Firek says, "we would have been forced to shut our doors." Instead, he adds, Prime Tube is becoming a better, more efficient company with a tighter business focus and a brightening financial picture.

Company: Spartanburg Steel Products Inc., Spartanburg, South Carolina.  
 Business: Manufacturer of stamped metal parts.  
 Number of Employees: 600.  
 Company: Coastal Technologies Inc., Varnville, South Carolina.  
 Business: Manufacturer of mist eliminators.  
 Number of Employees: 15.

Through the NIST Southeast Manufacturing Technology Center (MTC), manufacturers of products ranging from fishing rods and baseboard heaters to parts for cars and pressure vessels for geothermal power plants are taking advantage of computer-aided techniques that can speed product design and development.

One satisfied customer is the engineering department at Spartanburg Steel Products Inc., a South Carolina supplier of stamped automobile parts that employs about 600 people. With a technical assist from the Southeast MTC's Computer-Aided Design Laboratory, Spartanburg Steel successfully responded to a challenge by one of its major customers and thereby strengthened their relationship.

Specifically, Spartanburg Steel faced the task of developing a lighter, lower-cost alternative to the metal brace used to secure the dashboard to the frame of an automobile made by the customer. The company developed a new design, but, then, its engineers hit a snag: Because of the part's complex geometry, conventional, manual methods of stress analysis were not a practical, cost-effective option for determining whether the design would satisfy the load conditions and other structural-integrity requirements specified by the customer.

A possible solution emerged when Spartanburg Steel engineers attended a "CEO breakfast" on predictive engineering technology, which was arranged by the Greenville Technical College, an affiliate of the Columbia-based Southeast MTC. Recognizing that the technology might serve its needs, the company requested an in-depth seminar on a particular technique, known as finite-element analysis.

Presented with the challenge facing the company's engineers, senior specialists from the Southeast MTC proposed a computer-based approach that could be used to conduct the essential stress and weight analyses. Using the center's coordinate measuring machine, the specialists measured 10,000 different points on the surface of the part supplied by Spartanburg Steel. The digital data were used to create a graphic model, permitting reliable simulations of stress tests with the finite-element-analysis technique. The analysis of the new design revealed the distribution of stresses over the surface of the part.

The findings confirmed that a part based on the new design, which would reduce the weight of the brace by nearly a pound, would satisfy the customer's structural requirements. Now in full production, the part is being used daily in a popular, high-volume vehicle.

Curtis Rhodes, one of the Southeast MTC specialists who worked with Spartanburg Steel, says that finite-element analysis is a valuable tool for evaluating designs. But, he adds, most small and medium-sized companies cannot justify investing in the technology and in training a staff member to apply it.

"Companies will have only an occasional need for finite-element analysis," Rhodes explains. "When you need the technology, it's more efficient to go outside the company and acquire this capability as a service."

Rhodes and his colleagues have a steady stream of customers who are doing just that. For example, Coastal Technologies, of Varnville, S.C., recently used the Southeast MTC's service during the design phase of an ongoing project to build a 40-foot-tall pressure vessel, or cyclone separator, that will be packaged with one of Coastal's mist eliminators, the company's main product. When completed, the equipment will be supplied to a Japanese construction company building a geothermal power plant in Asia. It will be used to remove potentially destructive particles from underground steam that will drive the plant's turbines.

Harry Wechsler, president of the 15-employee firm, explains that, because of an unusual feature specified by the customer and unaddressed by engineering codes, Coastal was required to do a thorough mechanical analysis of the design. "We didn't have the resources—hardware, software, or expertise—but we knew the MTC did," he says, noting that Coastal has used the center's services on several occasions. "Our relationship with the MTC has been very beneficial. We make use of them whenever we think they can help us."

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Company: CEM Corporation, Matthews, North Carolina.  
 Business: Manufacturer of microwave-based analytical instrumentation.  
 Number of Employees: 130.

By the late 1970's, the CEM Corp. had begun earning a name for itself in the new arena of microwave-assisted chemical analysis. At the time, the standard way to analyze rugged, hard-to-dissolve metallic, soil, and other inorganic samples was to dump the samples into a strong mineral acid and heat it up on a hot plate. Then researchers would wait, and wait, and maybe wait some more, until the hot acid digested the sample enough for analysis by spectroscopy and other standard methods. Many jobs also required some kind of specific fiddling—maybe a stint on a shaker table or a more rigorous heating regimen. As a result, analysts had to know and use a variety of protocols that could take anywhere from hours to several days.

Word about CEM's apparently simpler microwave alternative spread quickly to companies in the oil, chemical, mining, and environmental monitoring industries where analysis of metal-containing soil and sludge, ceramic powders, and minerals was a daily need. With the microwave technique, the sample and acid go into a closed Teflon container, which is then heated in the microwave for a few minutes, 30 at the most. The sample comes out ready for analysis. "When people became aware of our microwave work, they came to us asking about it," recalls CEM CEO Michael Collins.

That was just fine, but Collins knew CEM (which stands for Chemistry, Electronics, and Mechanics—the disciplines that CEM's three founders brought into the company) could not yet offer customers a ready-to-go system. The specific microwave power, time, and other factors required for each type of sample could only be determined by a time-consuming, trial-and-error process. There was no recourse for a new user but to go through that process. Moreover, since no one knew exactly how microwave energy was digesting the samples, no one could say just how the method worked.

Despite drawbacks of the traditional open-beaker, hot-plate methods, analysts understood them, knew they worked, and knew how to do them. It would be hard for CEM to break through into bigger markets unless the company could tell its customers both how the microwave methods worked and precisely which protocol worked for a given type of sample. "We didn't just want to ship our customers a box and then leave them on their own to make it work," Collins says.

With that goal on their minds, Collins received a fateful call in 1983 from NIST chemist Skip Kingston, now at Duquesne University. Kingston was doing some research on microwave-assisted chemistry and became convinced that the techniques had good potential to simplify many chemical procedures. He wanted to learn more about the physical mechanisms underlying the process and to develop the kind of theoretical understanding that could add microwave chemistry to the generally accepted corpus of chemical knowledge and techniques.

Kingston knew that CEM had been selling microwave instrumentation for a few years so he gave them a call. Collins was interested. Within a month, he had spent a day in Kingston's Gaithersburg, Md., laboratory to discuss the possibilities in more depth. A collaboration seemed right for both parties. "Within a few months, we had set up and funded Lois Jassie as a research associate at NIST," Collins recalls. As part of this, Jassie enrolled in the Ph.D. program at the nearby American University, and this microwave work became the basis for her research and thesis. So, as CEM was finalizing the design of what would become production models of a microwave digester, the collaboration was developing application protocols for specific sample types as well as fundamental studies into the physics and chemistry of the process. In short order, these studies suggested to CEM that a sealable Teflon container would allow microwave energy to penetrate to the contained sample while enabling pressure to build up inside without exploding.

By the end of 1984, CEM was selling a closed-vessel microwave system. Sales went up considerably following a seminal paper by Kingston and Jassie in the Oct. 12, 1986, issue of *Analytical Chemistry*. "That paper educated the technical community in microwave-assisted chemistry," Collins says. By 1990, the microwave digestion system had grown into CEM's major product, with sales to both domestic and foreign customers. The company now is the industry leader. "This year we expect to have \$30 million in sales and 40 percent will come from our microwave digestion products," Collins says.

CEM found the NIST connection so valuable that the company kept Jassie on at NIST as a research associate until 1993, nearly a full decade. That human connection enabled CEM to benefit from NIST's strength in protocol development, and NIST researchers were able to keep abreast of what users and makers of microwave-based instruments were doing and what they needed.

The future still holds plenty of promise for the microwave-assisted chemistry that CEM and NIST helped shepherd into respectability and into instrumentation that analysts can buy. Says Collins: "We see this as an emerging field, which is still in its infancy."

Company: The Automotive Composites Consortium: Ford Motor Company, Dearborn, Michigan; General Motors Corporation, Detroit, Michigan; Chrysler Corporation, Highland Park, Michigan.

Business: Automotive manufacturers.

Number of Employees: Approximately 1,240,000.

Pressure to substitute traditional materials with others that are cheaper, stronger, lighter, or better by some measure than the originals is a fundamental driver of technological change and adaptation. The risks and rewards are largest for industries like the car industry, which rely on vast amounts of materials.

The availability of inexpensive steel early in this century made mass production of cars more technologically and economically sensible. "It replaced wood in auto bodies and enabled [the car industry] to make larger, more reliable, higher performance products," says Carl Johnson, a product engineer at Ford's Scientific Research Laboratory in Dearborn, Mich. In 1991, the automotive industry used 10 million tons of steel.

The material virtues of strength, durability, and manufacturability that have made steel so critical to car makers may no longer be enough to offset a drawback—its heaviness—that has become a critical liability in today's ever more environmentally minded context. Every extra pound in a car translates into higher fuel consumption and pollution output. The search is on for lightweight, environmentally sound substitutes that can be integrated into the manufacturing process and provide the necessary strength, crash worthiness, and durability.

Composites, which are combinations of two different materials that each contribute desirable traits normally not found combined in any one material, are a leading candidate for substitution. That is why the big three automakers—Ford, General Motors, and Chrysler—joined forces in 1988 to form the Automotive Composites Consortium (ACC) and sought the assistance of the National Institute of Standards and Technology with their efforts.

Composites have a long history. One of the earliest examples still in use—straw mixed into a mud base—yields a building material that is stronger and more crack resistant than mud alone. The higher tech automotive composites now being developed through the ACC are made from polymers such as urethanes (the mud) and glass fibers (the straw), which are either pressed into random mats like the filters of home heating furnaces or woven or braided into fabric-like mats. Experimental composite parts weigh up to 40 percent less than their steel counterparts and could shave hundreds of pounds from each car.

The challenge for the ACC (in 1992 the ACC became part of US CAR, a broader based private-sector/government program with the goal of producing high-quality, high-efficiency cars) is to develop a practical, affordable composite technology that can meet some of the most demanding manufacturing specifications on the planet. For example, "the front rail of the car holds the engine up, takes all road loads, and must handle the crash energy" to meet specifications, points out Elio Eusebi, head of the polymers department at General Motors Research and Development Center in Warren, Mich.

The composite-forming method most likely to end up on production lines probably will go something like this: A fiber mat is placed into a two-part, heatable mold, which is then shut, imposing the shape of the car component onto the dry mat. Liquid resin, polymerization agents, and other ingredients then are injected or drawn into the closed mold where they permeate the mat like water through a dry sponge. The high temperature in the mold initiates a chemical curing process resulting in a fiber-reinforced polymeric part in the desired shape. All this has to take place reliably and nearly flawlessly in a matter of seconds. "I don't want to build a mold and discover that I can't get resin into the corner," Eusebi says.

He, Johnson, and others working in the consortium say that the way to preempt the time and expense of that kind of unwelcome surprise is to create computer models that engineers can use to predict how variations in a part's shape and size will affect the composite-making process. The models ought to give engineers the power to quickly modify the process for each part, rather than having to go through a trial-and-error process each and every time to determine processing details such as how fast the liquid resin ought to be injected or what kind of fiber mat to use.

That's where researchers at NIST are making unique contributions to the composite R&D project, say industry consortium participants. Frederick Phelan, who was hired at NIST soon after the ACC began, has been developing computer models that predict critical process conditions such as how quickly liquid resin will flow into fiber mats in various shapes and the pressure generated during injection. To ensure that the models are realistic, Phelan's colleague, Richard Parnas, has developed protocols and materials, such as standardized fiber mats, that he and ACC members

can use to measure the permeability into fiber mats under different conditions. "Without experimental permeability data, everything is hypothetical," Johnson says.

Though industry insiders are optimistic about composites, no one yet can say just how extensively the materials might substitute for steel. At the moment, the composites remain too expensive to design and manufacture. Also, their properties are still not understood with enough confidence, and recycling issues need to be resolved. NIST is helping with these problems, say industry researchers, by leveraging company research to demystify the material. "It is extending what we can do," says Douglas Denton at Chrysler's Materials Engineering facility in Auburn Hill, Mich. Adds GM's Eusebi: "NIST has saved us the entire expense and time required to make accurate models, which is several man-years of work." With input from all of this effort, it is likely that historical industrial decisions about millions of tons of steel and resin and about automotive design will be made.

Postscript: Aerospace companies, including Grumman and Boeing, which also see a future for strong, lightweight composites as substitute materials for heavier metallic alloys, have initiated collaborations with the same composites experts at NIST. The same kind of process understanding and predictive abilities that the ACC needs to make composites work in the automotive context is an absolute requirement in the aeronautics context, notes Lyle Schwartz, director of NIST's Materials Science and Engineering Laboratory.

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Company: Corning Inc., Corning, New York.

Business: Makers of consumer housewares and specialty materials including optical fibers.

Company: AT&T Bell Laboratories, Atlanta Works, Norcross, Georgia.

Business: Providers of communications services and products, computer systems, and network equipment including optical fibers.

As you read this, the world is becoming ever more wired with optical fibers. Growing networks of millions of kilometers of glass fibers cross continents and oceans linking millions of people and computers worldwide with pulses of information-laden light. Without optical fibers, any talk of a National Information Infrastructure would be little more than a pipe dream.

With all of this growth, the need for optical fiber makers and users to standardize products, manufacturing processes, and installation procedures becomes critical. Lacking that, technical incompatibilities that would stunt growth of these networks, hinder their maintenance and repair, and thereby erode the international competitiveness of the U.S. telecommunications industry could emerge. This challenge is a classic call to arms for researchers at the National Institute of Standards and Technology.

Since 1981, NIST has been working closely with the Telecommunications Industry Association to advance both standards and technology for the optical fiber industry. A 1992 report prepared for NIST by an independent economist estimated that NIST's aid in the development of standards and measurement protocols had by then been responsible for annual savings of \$9.5 million in the optical fiber industry, which was more than four times the cumulative cost of the collaborative work throughout the entire 1980's.

A recent NIST contribution that has been getting particularly high praise from the industry goes by the unassuming name of SRM 2520. SRM stands for Standard Reference Material, and SRM 2520 is one of about a thousand different SRM's that NIST prepares for hundreds of industries that need reliable benchmarks by which they can calibrate their own tools, instruments, chemical analyses, and other measurement protocols.

At the heart of each SRM 2520, which companies can purchase from NIST for about \$1,000, is an optical fiber whose diameter has been more accurately measured and certified than any other fiber in the world. To certify each standard, NIST metrology expert Ted Doiron designed and built an exquisitely sensitive and accurate micrometer that could measure fiber diameters with an uncertainty of about 50 nanometers or the width of about 100 molecular layers of the glass. In the hands of the engineers at an optical fiber plant, an SRM 2520 serves as the most reliably calibrated ruler by which they can monitor the uniformity of their own commercial fibers, explains Matt Young, who developed SRM 2520 with Steve Mechels, Paul Hale, and other NIST researchers.

SRM 2520 has become a necessary tool in the production of optical fibers even though the standard only became available in 1993, according to Jan H. Suwinski, an executive vice president of Corning Inc. At the center of the standard fiber is a glass core about 10 micrometers in diameter surrounded by a thicker glass clad-

ding whose outer diameter is about 125 micrometers, or about two hair-widths. (The cladding is coated with a tough polymer to protect the glass from environmental degradation and breakage.)

The particular value of SRM 2520 is emerging as optical fibers reach from major optical cables to individual buildings, homes, and offices. This phase of network growth entails massive amounts of splicing and matching of fibers, which can be more expensive than stringing fibers longer distances, a procedure requiring fewer splices. Industry experts say that variation in fiber diameters would be calamitous because, if the diameters differ, the inner cores probably would fail to align precisely when joined, resulting in degraded light signals. And that spells "disaster" for an industry whose *raison d'être* is transmitting signals reliably and clearly. By using SRM 2520 to calibrate the fiber-making process, the optical fiber industry can increase the likelihood that its fibers will align. According to Department of Commerce statistics, the U.S. optical fiber market amounted to \$2.1 billion in 1992, which was 40 percent of the world total. That translates into a lot of splicing.

"Another industry-wide study found that the main problem in controlling the cladding diameter was having a reference," notes William Gardner, who specializes in fiber measurement standards at AT&T's optical fiber plant in Norcross, Ga. With SRM 2520, he says, uncertainty in the measurements of fiber diameters now vary within about one-tenth of a micrometer (about the width of a cell nucleus), which is about one-tenth of the uncertainty that was typical before SRM 2520 became available. Both AT&T and Corning now use SRM 2520 routinely for quality control.

In a letter to Judson French, director of NIST's Electronics and Electrical Engineering Laboratory, Corning's Suwinski wrote that "the opportunity to work with NIST on this project gave Corning and other American fiber manufacturers a clear competitive advantage."

For NIST, that kind of industry feedback translates into a mission accomplished. But not completed, notes Young. NIST and the optical fiber industry now are planning to work on other standards, including one for measuring the tiny diameters of ceramic ferrules that are used to connect fibers into continuous pathways of light.

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Company: Crucible Compaction Metals, Oakdale, Pennsylvania.

Business: Producer of high-performance materials and parts for aerospace and other applications.

Number of Employees: 65.

The inside of a working jet engine is a hellish place. Hour after hour, day after day, hot, corrosive combustion gases flow over its internal parts at hundreds of miles per hour. Many of these parts also rotate hundreds or thousands of times per minute, creating internal strains that would shred most materials in short order. Yet those parts have to withstand the punishment. There are no shoulders for repairs in the jet stream.

William Eisen thinks about these facts with more gravity than most people. He is president of Crucible Compaction Metals (CCM), an Oakdale, Pa., company, one of the few manufacturers of metal disks that rotate at high speed at elevated temperature to move gas through the jet engines on military and civilian aircraft. Given their hostile venues, these disks and other parts that Crucible makes have to be made of the toughest, strongest, most reliable, and most temperature-tolerant material that his company can make at a price that jet engine makers are willing to pay. Moreover, with global competition in both the aerospace and advanced metals business on a rapid ascent, Eisen can never afford to coast on the quality and efficiency of today's manufacturing processes.

Crucible's process starts with molten metal of the proper chemistry that will produce an alloy with the desired materials properties. But, instead of casting these parts by pouring molten metal into molds, or first forming billets that are shaped and processed later, CCM converts the liquid metal into fine powder using the so-called inert gas atomization process. This powder is then loaded into metal containers (molds) and consolidated into solid parts by hot isostatic pressing. Very little machining and finishing work is required afterward.

"You can make materials this way that you can't forge or roll or make in any other way," notes long-time NIST metallurgist John Manning, director of NIST's in-house powder metallurgy research group, which operates a powder making facility rigged with sophisticated sensors and valves that can monitor and control exactly what occurs as metal powders are made. It was a setup that no company had in place or could afford.

For Crucible, the complex process yields engine parts that fit the bill, Eisen says, but its efficiency was disappointing. NIST was soon to become part of the solution.

The problem had to do with the particles in the metal powder. To create parts with the range of properties needed for jet engines, the particles have to start out very small—with a maximum size about 0.076 millimeter (0.003 inch) in diameter—and extremely uniform. The small sizes of the particles help produce uniform properties in the finished parts and also reduce the sizes of voids or other imperfections, which are the seeds of material failure. If the company could reduce the amount of oversize powder produced, the process would become more efficient, operating expenses would decrease, and the company would become more competitive.

With that chain of events never far from Eisen's mind, he was especially receptive in 1982 when he heard about, and subsequently attended, a powder metallurgy conference in Gaithersburg, Md., at the National Institute of Standards and Technology (then called the National Bureau of Standards). "I had no idea of the extent of work going on there," Eisen recalls, adding that he hadn't previously thought of NIST as a place for getting answers to industrial process problems.

After the meeting, he remained in touch intermittently with the metallurgy group. In 1986, Crucible was invited to join a research consortium with NIST and other powder metallurgy companies. The consortium's goal would be to develop more detailed knowledge about how metal powders form and to use this knowledge for making the process more of a science. In 1987, Crucible, General Electric Corp., and Hoeganaes Corp. joined NIST to form the consortium. It was renewed in 1991 with two of the old partners and four new players and will end after 6 years in 1994.

The half-decade involvement paid off for Crucible in higher efficiency and lower costs. One crucial part of this gain was a computer model developed by the NIST fluid flow group. It enabled Crucible engineers to simulate accurately what was happening as particles formed rather than having to guess what happened by examining finished particles. The model had a lot to consider. The powders are made in an atomization process by letting the molten metal fall through a nozzle at the end of which a high-velocity stream of inert gas blows the liquid metal stream into a fine mist of tiny spherical droplets. These cool and solidify almost instantaneously and are collected downstream.

"We suspected that if we could understand the gas dynamics, we could control our process more successfully," Eisen says. They were right. The model, which the fluid flow group was able to develop using data obtained from NIST's supersonic inert gas metal atomizer, was designed to help CCM and other consortium members optimize their processes without having to tell each competitive details. "We now use this model the way other manufacturers rely on computer-aided design," Eisen says.

In a 1992 letter to Lyle Schwartz, director of NIST's Materials Science and Engineering Laboratory, Eisen noted that the computer model guided his company in the redesign of its gas delivery system, thereby increasing "the percentage of usable powder produced during the atomization process by over 40 percent." Efficiency gains of just a few percent usually are enough to get congratulatory memos flying around. At the same time, Eisen added, the new process consumes less argon gas, "helping to decrease Crucible's operating costs." That's just good business.

Company: Hewlett Packard Company, Greeley Hardcopy Division, Greeley, Colorado.

Business: Manufacturer of high-tech measurement, research, and business instruments.

Number of employees: 750.

In January 1992, engineers at Hewlett Packard (HP) Co.'s Greeley Hardcopy Division detected some disturbing signs in one of their product lines. Five months earlier, they had stunned the electronic communications community with a new and uncommonly affordable color scanner, an instrument that could convert a color image, or regular text, into a digital format. Once digitized, images or texts can be fed into electronic publishing software, multimedia packages, or whatever else the electronic communications moguls might come up with.

"This kind of product had been available for \$30,000 to \$50,000, and we brought it down to the \$2,000 range," notes Virgil L. Laing, manager of reliability engineering in Greeley's Hardcopy Division. Moreover, HP was then, and still is, the only U.S. company to have successfully entered the scanner market, which had been totally dominated by companies in Japan and Singapore.

HP's role as the lone Western player in the field only amplified the unnerving news trickling in from a small proportion of scanner customers. After several months of trouble-free operation, one or two out of a hundred users found that the copyboard glass—the pane of glass on which scanned material is placed like a page

to be photocopied—suddenly cracked, from one corner to the corner diagonally across.

The news—both alarming and puzzling—was a call to action to Laing and a colleague who took on the unexpected challenge full time.

"At first we thought our packaging might have been inadequate and that the cracks were occurring in shipping," Laing recalls. The natural inclination to wishful thinking, in this case, that a simple packaging fix was the solution, helped favor this hypothesis. But it also was reasonable because it just wasn't easy to break the copyboard glass. "We dropped it and we shocked it, but we didn't see any breaks," Laing says. "We literally couldn't break the glass unless we treated it so badly that it shattered."

Developing and evaluating the next tier of hypotheses took the special knowledge of a mechanical engineer especially familiar with glass and that meant going outside the group that had designed the scanner. The company hired a consultant in nearby Boulder who had designed spacecraft windows, which have to be as rugged and fracture resistant as glass can get. The consultant didn't solve the problem, but he suggested they call Harry McHenry, chief of the NIST Materials Reliability Division. They did. McHenry listened to the problem and then connected Laing with Robert Walsh, a specialist in materials fracture at the NIST lab.

On March 12, 1992, Laing, two other HP engineers, and a few scanners traveled to Walsh's laboratory where James Dally, a mechanical engineer on sabbatical from the University of Maryland, happened to be working as a guest researcher. In less than a day, the ad-hoc trouble-shooting caucus found the root of the problem.

Measurements with strain gauges indicated that the design of the top, which has to secure the glass in the machine, unexpectedly had introduced damaging levels of stress into the glass. Instead of a safe level of 200 pounds per square inch (psi), some parts of the glass were under 2000 psi. With that information in hand, "we did more research, got engineering manuals from Dow Corning, and checked with Dally some more," Laing recalls.

In little more than a month after the NIST visit, the designers at HP learned what gremlin had caused the cracking. The original design included a molded plastic part that put pressure on the corners of the glass to secure it in place. It seemed a reasonable way to meet the company's stringent shock and vibration specifications to prevent damage during shipping or intermittent rough treatment by users.

A consequence of this design decision, though, was to set the stage for a subtle kind of failure mechanism in glass that begins with what engineers call "static fatigue." At the corners of the copyboard, the extra pressure designed into the machine elicited microscopic cracks that, over time, merged into a single crack that ultimately sliced across the copyboard. The result: glass that breaks slowly rather than shattering instantaneously.

The solution was simple, clear, and inexpensive. "We redesigned the cover plastic, and the problem went away," Laing says. He estimates that their visit to the NIST lab and access to top experts in the field of fracture mechanics saved them 4 months of time and expense. Luckily, the fracture problem only affected a small percentage of the machines. But the scanners were selling well enough that Laing estimates the 4-month head start on the solution saved the company at least \$500,000. The static fatigue flaw was an unexpected difficulty, but it is the type of problem likely to arise as companies develop more sophisticated and complicated instruments that demand more and more of the materials used to make them. The key to success, Laing says, rides both on preempting problems before they happen and, if that fails, on finding good solutions quickly.

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Company: Lake Shore Cryotronics Inc., Westerville, Ohio.

Business: Manufacturer of measurement and control instruments for research, medicine, and industry.

Number of Employees: 90.

In 1987, the term superconductivity became part of the household lexicon. Coming in by radio, newspaper, and television were visions of a new technological era ushered in by breakthrough materials called high-temperature superconductors. If these strange ceramic materials could be developed into forms such as wires and coils, they just might supersede and surpass the copper and silicon-based electrical and electronic technologies that have come to characterize these times.

Insiders knew even then that the new materials were far from a sure bet, and realistic projections had scientists and engineers taking a decade or two before any part of the technovision stood a chance. Still, no company that had the potential to be involved could afford not to pay attention. Lake Shore Cryotronics (LSC), a small

firm in Westerville, Ohio, that makes and sells a variety of sensors and specialty electronic components, was one of them.

Right in the middle of those heady days in 1987, company employees Jeff Bergen and Warren Pierce were setting out on a multistop trip to find new and future markets relevant to LSC's strengths. That's also when LSC president John Swartz received a call from a colleague at the Massachusetts Institute of Technology suggesting that the trip itinerary include Fred Fickett's research group at the NIST Boulder facility. It turned out to be a key stop.

When the LSC team got into the laboratory, they saw an experimental instrument that the NIST group was using to measure electrical and magnetic properties in the new superconducting materials, recalls Bergen. Nothing came of the visit immediately, though Bergen and his colleagues cataloged the instrument in their memories since they knew that superconductivity, and sensors for studying the phenomenon, were probably going to be growth fields.

A few months later during a phone conversation between LSC and NIST scientists, the commercial possibilities of the instrument that the LSC troupe had seen, called an AC susceptometer, came up. The NIST group was finding their instrument so useful in their experiments that they suspected others studying and developing the new superconducting ceramics would feel the same way. Moreover, a number of groups, mostly in Europe, were already putting their own homemade AC susceptometers to work. The instrument uses an alternating electrical current (AC) to impose a magnetic field on a sample while monitoring how the sample responds to, and interacts with, the field. The data from these experiments reveal electrical and magnetic features of the sample, including its superconducting and non-superconducting properties.

After studying the possibilities, and drawing heavily on the experience of the NIST group, the LSC staff concluded that AC susceptometers "could be built and sold at more accessible prices than anyone could build themselves in the laboratory," Bergen says. LSC scientists and engineers conferred with the NIST group regularly and within 1 year—by mid-1988—LSC had built and sold the first commercially manufactured AC susceptometer. "We turned it into a turn-key instrument," Bergen says. The company followed that in 1991 by unveiling an AC susceptometer combined with a DC magnetometer, a related instrument that the U.S. research community is more familiar with.

These instruments since have been sold to many labs around the world and have contributed greatly to the rapid growth of Lake Shore's magnetic measurements product lines, Bergen notes.

As it turns out, the more sober projections for high-temperature superconductivity remain on target, Bergen says. A few small applications of the materials in products such as magnetic field sensors (superconducting quantum interference devices, or SQUIDS for short) for oil prospecting and medical imaging could emerge before 1997 comes around, but widespread and large-scale use remains uncertain. That uncertainty has changed the business context for LSC, notes Bergen. "The cryogenic market [for instruments that work at extremely frigid temperatures] is having a lesser rate of return," Bergen notes.

"We are now looking beyond traditional markets," Swartz adds. It is that kind of adaptive behavior that could well transform business uncertainty into opportunity.

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Company: Optical E.T.C. Inc., Huntsville, Alabama.

Business: Developer of infrared-based technologies for military and commercial applications.

Number of Employees: 5.

Networking works, sometimes when you're not even trying. R. Barry Johnson, a former professor of electrical engineering who now calls himself an infrared technologist, can tell you so. The results so far from an unexpected collaboration with researchers at the National Institute of Standards and Technology, he says, are accelerated progress for his company's R&D and \$3 million of research funding from the Navy.

What Johnson and his main NIST collaborator, Michael Gaitan, are developing might be thought of as minuscule stoves having hundreds of burners and made out of tiny silicon chips, aluminum, and a few other ingredients. Their experimental models today consist of square arrays of "microheating elements," together with microcircuitry that controls the pattern and intensity of heating, all on a chip about the size of a telephone number button. Johnson, Gaitan, and other collaborators expect to make much larger arrays involving more than 16,000 individually control-

lable heating elements. The tiny devices are made by adapting mature microfabrication techniques developed originally by the microelectronics community.

The initial goal of all of this microstoveery, Johnson explains, is to develop an inexpensive, versatile, and reliable technology for "dynamic thermal scene simulation," which is the art of emulating the thermal energy emissions of objects or even complex scenes like tanks on patches of desert. The Department of Defense, which has supported both Johnson and Gaitan's work for years, is moving more and more toward simulation and emulation technologies like this one as a hopefully cheaper and less risky means of testing equipment and training personnel.

Johnson and Gaitan both envision using their microfabrication skills for non-military uses as well—sensors built into wings, bridges, and even shipping crates that monitor, locate, and record damaging vibrations; chip-sized sensors that simultaneously sense the presence and amounts of many different pollutants in the air; or accelerometers for mechanisms that control and trigger air bags in cars.

Gaitan and Johnson say these possibilities are accelerating along the R&D process faster than would have been possible had they not been networked several years ago by an Army contract officer working at Redstone Arsenal, Ala. The Army happened to be supporting both researchers for different projects. When Gaitan traveled to Alabama to discuss his project, the Army contract officer arranged for Gaitan to meet Johnson, intuiting that the two might cook up good ideas relevant to the Army's needs. Who could predict what could emerge by mixing people with expertise in infrared optics, electrical engineering, and microfabrication?

Plenty, it seems. For the first 2 years after their initial meeting, Johnson and Gaitan maintained informal contact by phone, e-mail, occasional visits, and the like. It was during that time that they began developing and testing their ideas for mass-produced, microfabricated thermal arrays. In 1992, Johnson and NIST made their connection somewhat more formal by signing a Cooperative Research and Development Agreement (CRADA), which Johnson and Gaitan say has led to several tangible benefits. As a result of their joint work on thermal displays, NIST is in the process of applying for a patent, an involved and tedious process that Johnson says he and his company, Optical E.T.C., would not have pursued on its own. Moreover, Johnson credits his association with Gaitan as a major factor in a Navy decision to fund a project in which the two are co-principal investigators in an effort to take their thermal-imaging prototypes to the next stage of development. The funding will span 3 years beginning in fiscal year 1995 and will amount to about \$3 million. Johnson notes that his company already has an agreement with a California company, Santa Barbara Infrared, to distribute commercial products that may come out of the collaboration.

"This relationship is in principle what Congress intended" with its legislation to make the federal government's research assets more accessible to private companies, Johnson notes. "With this type of assistance and motivation, I think we will have a much stronger country."

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Companies: Amersham/MediPhysics, Illinois; Bristol-Myers Squibb, New Jersey; Du Pont Merck Pharmaceutical, Massachusetts; Mallinckrodt Medical, Missouri; Nordion International, Ontario, Canada; Packard Instruments, Illinois; Syncor International, California.

Inventing ways to see inside bodies without cutting into them is one of the medical community's shining successes. Radioactive isotopes that can be injected safely into patients' bloodstreams and tissues get a lot of credit for that success. These so-called radiopharmaceuticals work like transient spies sending diagnostic signals from inside the body to external detectors and computers, which construct images of internal body structures from those signals. Like good spies too, the isotopes quickly disappear once their job is done, either by transforming into non-radioactive products or by passing out of the body.

If they know precisely how much radioactivity each dose harbors, doctors can confidently inject patients with radioactive drugs such as thallium-201 for heart scans. Determining the exact amount of radioactivity is an especially demanding measurement task, however, since radioactive isotopes are produced at private or government facilities, made into radiopharmaceutical preparations by a number of different companies, and then put to diagnostic use at thousands of hospitals. All the while, the radioactivity contents to be measured are changing. Unlike the weight of a pill, which remains constant from maker to patient, the activity of radiopharmaceuticals continually decreases over time.

Regardless of the challenges, each radiopharmaceutical handler must have a way of assuring that their own radioactivity measurements are accurate. Nuclear Regu-

latory Commission rules, for one, require such measurements. Good business and good medicine also critically depend on the quality of these measurements.

Assurance of that quality stems from the National Institute of Standards and Technology, remarks Tibor Schubert, manager of radiodiagnostics at Bristol-Myers Squibb. For the past 20 years, NIST and the Nuclear Energy Institute (formerly the United States Council for Energy Awareness), which represents the nuclear power and nuclear medicine industries, have collaborated to provide the industry with standards that everyone can use as benchmarks. "It helps make sure that everyone is on the same wavelength," says Schubert, who chairs a NIST/NEI steering group that sets the agenda for the collaboration. "It increases the confidence for everybody" who makes and uses radiopharmaceuticals, adds Michael S. Mosley, a quality control and government affairs specialist at Syncor International Corp., the country's fastest growing "nuclear pharmacy."

That confidence level has contributed to the ascent of radiopharmaceuticals both as a standard part of medical practice and as big business, say Schubert, Mosley, and others in the industry. Each year, U.S. doctors perform over 7 million diagnostic procedures using radiopharmaceuticals. About one out of every four patients entering hospitals undergoes some form of radioactive diagnostic or therapeutic procedure. Many cardiac patients undergo the thallium-201 stress test, which allows doctors to image the damaged heart for guidance in treating heart patients. The market for radiopharmaceutical preparations now approaches \$1 billion.

When the NIST/NEI collaboration began in 1973, there were no standards for three out of four radiopharmaceuticals then available, nor were there uniformly adopted protocols by which instruments in different places were calibrated even when standards were available. These and other measurement problems slowed Food and Drug Administration approval of new drugs and led to disputes between vendors and buyers of radiopharmaceuticals since prices are determined not by weight but by the amount of radioactivity sold.

Out of the collaboration so far have come 25 new Standard Reference Materials (SRM's), which are distributed as small sealed ampoules containing specific radiopharmaceuticals with NIST-certified amounts of radioactivity. Vendors and buyers use these to calibrate their own measurements. Among these SRM's, which are prepared and certified by three scientists at NIST who are supported by a fee paid by member companies, are standards for thallium-201; iodine-131, an agent for diagnosing and treating thyroid problems; and technetium-99m, which is used in procedures such as imaging brain tissue.

Besides the collaboration's intangible payoff in the form of product and industry confidence, the NIST-made SRM's have a more direct impact on companies' bottom lines. "If a company went out and developed these on its own, you are talking maybe \$1 million," estimates Felix Killar, manager of Non-Utility Programs for NEI. "Participation in the program and having radiopharmaceuticals [whose activities are] traceable to NIST standards gives member companies a competitive advantage."

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Business: The steel industry.  
Number of Employees: 180,000.

Steel. It is the strength and stability of skyscrapers and bridges spanning miles. It is the stuff of machine tools and mass manufacturing. It is the material of this century's two gargantuan war efforts. It is big, big business. In 1991, the U.S. steel industry sold \$27.3 billion worth of material and, even after dramatically paring back its workforce, employed over 180,000 at 83 companies that shipped 78.8 million tons of steel.

From the early years of the century, the National Institute of Standards and Technology (known as the National Bureau of Standards until 1988) has been woven intimately into the evolutionary process by which steel has become one of the most reliable, most used, and most important materials of the age. Basic steel is made from iron whose normal carbon content of 4 percent or so by weight is reduced to usually less than 1 percent and whose properties are extremely sensitive to precise differences in composition. Special alloys depend on specific additions of other elements such as chromium for stainless steel, or chromium, tungsten, and vanadium for particularly hard tool steels. The central challenge of the industry is to produce the desired amount of steel with the specified properties with the greatest possible efficiency.

To some industry representatives, the most consistent and crucial kind of assistance that NIST has lent comes in the form of Standard Reference Materials, or SRM's as they are known in the trade. NIST ships over 125 steel-related SRM's that manufacturers use for calibrating instruments and validating in-house measure-

ments of their products' chemical composition and physical properties such as hardness and electrical resistivity. Most of the steel-related SRM's are chips, disks, powders, or rods of steel alloys whose chemical composition has been measured with exceptional precision and accuracy.

In 1993 alone, NIST shipped 5,963 SRM's related to the chemical composition of steel alloys. These SRM's are as central to a steel company's operations as a tape measure is to a carpenter. "We use these things [SRM's] every day," says Thomas Dulski, a senior analytical chemist at Carpenter Technologies Corp., a century-old specialty steel company in Reading, Pa., which supplied steel cables to the Wright Brothers and now specializes in high-end steel alloys for such things as surgical implants and parts for air bag systems. "I have worked in the industry for 30 years and I could not imagine the last 30 years without [SRM's and] interaction with NIST. It would be a different and lesser industry if it had not been for NIST."

Makers of huge volumes of basic steel rely just as heavily on NIST's SRM's, notes Dulski, who also is chairman of the steel analysis committee of ASTM (American Society for Testing and Materials), a voluntary standards organization through which industries develop consensus on technical issues such as manufacturing and testing practices. "Without those SRM's, their operations would be virtually impossible," Dulski notes.

The NIST connection with the steel industry reaches nearly as far back as NIST's creation by Congress in 1901 when the steel industry was still maturing from its industrial roots a few decades earlier.

At the time, railroad accidents were occurring at a rate of over 4,000 each year, causing an annual average of almost 13,000 deaths and injuries between 1902 and 1912. The blame, it seemed, rested with broken rails, wheels, flanges, and axles pushed to failure by a combination of excessive loads, inadequate maintenance, and inferior iron and steel. Besides subjecting specimens from railroad disasters to chemical, mechanical, and microscopic investigations to uncover the bases for good and bad metal, NIST began supplying the steel industry with some of the first "standard materials," which companies used to better control the properties of their products. That was the start of an extended relationship between NIST and the steel industry, which Dulski says only becomes more critical and diverse today. Besides using SRM's, the steel industry now regularly interacts with NIST via cooperative research arrangements, consortia, workshops, trouble-shooting sessions, and other collaborative mechanisms whose common goal is to improve existing technologies and to develop new ones. It would seem that this NIST-industry connection is as strong as steel.

#### Malcolm Baldrige National Quality Award Program.

By the 1980's, many industry and government leaders in the United States firmly believed that a renewed emphasis on quality was no longer an option for American companies but a necessity. An ever growing world market was, and is, demanding quality goods and services. But many American businesses either didn't believe quality mattered for them or didn't know where to begin.

To accelerate a small, slowly growing U.S. quality movement, the Malcolm Baldrige National Quality Award was established by Congress in 1987 to promote quality awareness, to recognize quality achievements of U.S. companies, and to publicize successful quality strategies.

The Baldrige Quality Award program, developed and managed by NIST with the cooperation and financial support of the private sector, has proven to be a highly successful government and industry team effort. Over the past 6 years, the award program has encouraged thousands of U.S. companies to adopt quality improvement strategies. According to a recent report by the Conference Board, a private business membership organization, "A majority of large U.S. firms have used the criteria of the Malcolm Baldrige National Quality Award for self-improvement, and the evidence suggests a long-term link between use of the Baldrige criteria and improved business performance."

While quality management cannot guarantee success, the Baldrige award winning companies and many others believe that investing in quality can lead to outstanding returns, both for individual companies and the country.

For example, Thomas N. Kennedy, an executive with Sollectron Corp., says, "We embraced the Baldrige criteria in 1989 and continue to use it as a template for process improvement as well as for driving leadership and employee involvement in all aspects of quality. As a result, annual revenue has increased over threefold in the last 4 years, from \$130 million to \$407 million. \* \* \* Net income has increased from \$4.3 million to \$14.5 million \* \* \* jobs have increased from 1,500 to over

3,700 and Solecron's customer satisfaction index grew to 93 percent." Based in California, Solecron, a 1991 Baldrige Award winner, provides manufacturing services to the electronics industry.

In the early 1980's, senior management at Ames Rubber Corp., a 1993 Baldrige Award winner, realized that the international marketplace was changing dramatically. The New Jersey company of about 450 employees produces rubber rollers for office machines and highly specialized automotive parts. Even though the firm was doing well both in Europe and the United States, its customers were demanding products that met more exacting quality requirements at lower prices. Offshore competition was emerging, and it became evident that business as usual would not suffice.

With help from Xerox Corp., its prime customer, Ames Rubber instituted a new work process in 1987 based on quality management. Their success can be measured by a 3-year, 48-percent increase in productivity, a defect rate that has plummeted from 30,000 parts per million in 1989 to just 11, and savings from teammate ideas of over \$1.2 million in 1993 alone.

Another 1993 Baldrige Award winner, Eastman Chemical Co., also looked to quality management as a way of getting back on track after losing market share of a major product in the late 1970's. Employing over 17,000, the company used the Baldrige Award criteria to help define its quality culture and regain its competitive edge.

Eastman Chemical is indeed competitive. For the past 4 years, over 70 percent of its worldwide customers have ranked Eastman as their number one supplier. Of the five factors customers believe are most important—product quality, product uniformity, supplier integrity, correct delivery, and reliability—Eastman has been rated outstanding for the past 7 years. And, quality management helped the company reduce the time to bring a new product to market by 50 percent since 1990.

Says company president Earnie Deavenport, "Eastman, like other Baldrige winners, didn't apply the concepts of total quality management just to win an award. We did it to win customers. We did it to grow. We did it to prosper and to remain competitive in a world marketplace."

Other Baldrige winners have similar stories:

- At Federal Express Corp., a 1990 winner, ideas from Quality Action Teams have saved the company almost \$29 million.
- At 1988 winner Globe Metallurgical, exports have grown from 2 percent to 20 percent of sales from 1988 to 1992, while overall sales grew by 24 percent.
- Customer accounts at Granite Rock Co., a 1992 winner, have increased 38 percent from 1989 through mid-1993.
- Since 1987, Motorola Inc., a 1988 winner, has increased its sales from \$6.7 billion to \$17 billion. In addition, the company has added 18,000 employees and productivity has increased 126 percent. Also, by reducing manufacturing defects, Motorola has saved \$4.6 billion since 1987 in manufacturing costs.
- According to an article in the Oct. 18, 1993, Business Week, the three publicly traded whole company Baldrige winners outperformed the Standard & Poor's 500 from the time they won through Sept. 30, 1993, by a factor of 8.6 to 1.

Dr. PRABHAKAR. Thank you. Each of these is a story about how we have worked with a particular company or group of companies. It conveys in some detail the kinds of interactions, the kinds of value that companies have derived from working with NIST, and I think those are quite useful to look at as specific examples.

NIST, of course, has a portfolio of different approaches for working with American industry. The original component of our activities is the NIST laboratories, the old National Bureau of Standards. Our job in that component dates back to 1901, and it is the job of serving as the Nation's measurement laboratory, providing the measurements, the standards, the evaluated data, the test methods, the underpinning technologies for much of the rest of the industrial endeavor. That activity is in the budget request, in the fiscal 1995 request at \$316 million. And in addition to the STRS appropriation request, there is a \$100 million request to continue the construction and renovation of our facilities that was begun a few years ago.

The other parts of our portfolio are new, and came to us as part of the transformation into NIST a few years ago. One, of course, is the Advanced Technology Program, and here the mechanism is to fund high-risk projects in companies on a cost-share basis, really to stretch the capabilities of industrial R&D dollars to do things that are longer term or riskier or require interactions among companies that would not happen without that stimulus. Really, those kinds of technologies that are going to be critical for the longer-term economic growth.

In the case of the Advanced Technology Program, we have had pilot-level activity for a few years, since the early nineties, as we have been learning how to do this new business. I think we have laid a superb base, and in this administration we are trying now to scale up the funding for ATP to the point that it can really function as a national program and really deliver value at a national level. I believe we have got a very effective scale-up plan in place. It involves working directly with the industry to identify areas for the focus of the investment. That has worked extraordinarily well during this last year. The budget request for fiscal 1995 is \$451 million for ATP.

Manufacturing extension is another activity in our portfolio of approaches. This, like ATP, began very recently and, again, operated in much of a pilot mode in the first few years while we learned what this new business was all about. Here, of course, we are trying to deliver information and expertise to small manufacturers so that they can upgrade their capabilities and become more competitive. We view our role as trying to provide that connection to this broad and diffuse manufacturing base across the country, the 370,000 small manufacturers that are across our Nation.

We think that there are many, many sources of technology and business expertise that can be coupled to those manufacturers, and with our funds we surely do not intend to be the sole supplier of knowledge and wisdom, but rather we are trying to provide the linkages that are going to be critical to helping those companies move forward.

Again, building on the base that we had established in the early years, in the last year or so we have been able to work with the technology reinvestment project in the Department of Defense, along with their funding—we are well on our way now, with several centers underway. With the fiscal 1995 budget request of \$61 million, we will be over 60 centers. And, again, I think we are making dramatic progress right now toward the President's stated goal of trying to build a national network of 100 centers by 1997.

The final component in our portfolio of programs at NIST is the Malcolm Baldrige National Quality Award and the associated Quality Program which, of course, works by recognizing the best examples of quality practices, highlighting them, and perhaps more importantly, sharing a quality approach and a quality methodology very broadly in the private sector. Again, we have served as a catalyst to bring that private community together.

The budget request for quality for 1995 is \$6.9 million. Those funds will serve to help expand the categories from manufacturing, small business, and services, the categories that exist today, to now include health care and education, where we are beginning pilot ac-

tivities to see how Baldrige can be extended to these other critical areas.

So we have a set of programs in place. I think we have demonstrated their value, their effectiveness. The engagement with the industry is a rich, productive, well-coupled engagement, and I think that is critical to our future success.

That is the first element of our strategy. We have also taken a step back from the sort of tactical operational issues, and said that we really need to ask the basic underlying questions as well, about this new business of civilian technology that we are embarked on. It is not a new business, but for us as a country, this really is the first time that we have set out deliberately to try to do this job.

When I first came to NIST, when Dr. Good started interacting with us, and as we have talked to people in industry, the two questions that always come up are, first, how do you decide where you spend taxpayers' dollars, how do you set the priorities for spending, and then second, once you have done that, how do you measure the results, how do you know that you are really delivering value to taxpayers from these investments?

When I started asking these questions at NIST last year, I found, to my delight, that people had been thinking about this. We thought it was important to try to capture our thinking about these issues, and so a couple of months ago we published a document called "Setting Priorities and Measuring Results at NIST." While I would never claim that these are jobs that are ever done, for I think you really never get final answers to these tough questions, I think the process of asking and the process of capturing this information has helped us tremendously. We have distributed this material widely and gotten tremendous input back from the industry and many of our colleagues across Government, all of which has been very helpful to our process.

And, again, I would offer this for the record, if you would like to include that, if you would like me to do so.

Senator HOLLINGS. It will be included.

[The information follows:]

#### SETTING PRIORITIES AND MEASURING RESULTS AT THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

##### FOREWORD

Accelerated development, commercialization, and adoption of technology are key, driving elements of the Clinton Administration's plan to foster long-term economic growth that benefits all U.S. citizens. The Administration's strategy of making direct, purposeful investments to prime industry's wealth- and job-creating pump of innovation and commercialization is moving federal technology policy in new directions and toward new horizons.

A "grand experiment" has begun, one in which industry and government are collaborating as willing partners in responding to unprecedented technological challenges and opportunities. Past federal investments in science and technology helped to bring an end to the Cold War and to make the United States the world leader in science. To repeat this success in the arena of global economic competition, the federal government must tightly couple its technology programs to U.S. industry's goals and priorities, and it must work closely with the private sector to accomplish technological and economic objectives that will pay dividends to the entire nation.

This widely recognized imperative—that of effectively linking the complementary technology activities of government and industry—evokes two key questions that warrant thorough, thoughtful responses. First, how does the federal government select where to invest public resources and, second, how do we measure the results of our investments in technology development and application?

This paper presents how we at the Commerce Department's Technology Administration are addressing these important questions for the National Institute of Standards and Technology (NIST). It describes how NIST's four major programs—the Advanced Technology Program, laboratory R&D, the Manufacturing Extension Partnership, and the Malcolm Baldrige National Quality Award program—set priorities, evaluate performance, and measure economic impact. The issues addressed in this paper cannot be reduced to simple formulas that yield unambiguous, quantitative answers, or fixed coordinates that lock in a course for NIST programs. But, in addressing these questions, we can identify ways to improve how we do our job and to increase the effectiveness of NIST programs.

Judgments are an inherent part of the process of setting priorities and measuring results, but these judgments must be guided by comprehensive qualitative and quantitative information that captures customers' needs and accurately portrays how efficiently and effectively NIST is responding to those needs. Therefore, efforts to develop better processes and metrics are fundamental to accomplishing NIST's objectives of continuously improving and increasing the value of our programs.

This paper, which has benefited from our discussions with many government and industry experts, has been prepared to promote discussion and invite constructive criticism from industry, academia, government agencies, and others with a role in civilian technology. Therefore, we pose a question to our readers: How can NIST improve its processes for setting priorities and measuring results? We'd really like to benefit from your thinking. So, please send us your comments.

MARY GOOD,  
*Under Secretary for Technology, DOC.*

ARATI PRABHAKAR,  
*Director, NIST.*

#### SETTING PRIORITIES AND MEASURING RESULTS

Growing appreciation of technology's pivotal economic role is leading to changes in federal R&D investment strategies. The Clinton Administration aims to accelerate technology development and application as part of a national effort to foster long-term economic growth that creates new high-quality jobs, builds new industries, and improves the U.S. standard of living. With strong support in Congress and industry, the Administration advocates direct, purposeful investment in commercially relevant technologies. Moreover, the new policy assigns the federal government to the role of partner to industry—as well as to labor and academia—in working to catalyze and facilitate technology development, application, and adoption. An operational aim is to focus and leverage federal expenditures so that relatively small investments yield meaningful economic benefits for the nation.

Like the post-World War II decisions that successfully aligned federal R&D spending with defense and other national needs, today's policy decisions are reckoning with new circumstances wrought by the end of the Cold War, intensifying global economic competition, the rapid diffusion of discoveries and innovations across international borders, and the increasing technological intensity of modern manufacturing and service industries.

This transition in federal technology policy is occurring during a period of constrained federal budgets, prompting two frequently asked questions: First, how do agencies with technology programs identify and select areas warranting investment of federal resources? Second, how do agencies measure the results of their technology investments and ascertain whether these investments are yielding their anticipated national benefits?

#### THE MISSION AND ROLE OF NIST

These questions are especially relevant to the National Institute of Standards and Technology, part of the Commerce Department's Technology Administration. The Clinton Administration has assigned NIST to an important role in its plans to help U.S. industry to improve its development, commercialization, and adoption of new technology.

NIST's explicit mission is to promote U.S. economic growth by working with industry to develop and apply technology, measurements, and standards. [See box, NIST in the Context of Federal R&D.]

Under this mission, unique among federal agencies, NIST's direct customer is U.S. industry, which, in turn, is the means to accomplishing the agency's ultimate objective of fostering sustained economic growth that benefits U.S. citizens. The agency's portfolio of programs features four approaches to carrying out its mission and serving U.S. industry:

- an Advanced Technology Program (ATP) that invests in cost-shared projects in companies to develop enabling, high-payoff technologies that otherwise would not be pursued because of technical risks and other obstacles that discourage private investment;
- laboratory research programs focused on meeting U.S. industry's infrastructural technology needs, including standards, measurements and measurement technologies, evaluated data, manufacturing process models, product-performance tests, and quality-assurance techniques;
- a Manufacturing Extension Partnership (MEP) that is scaling up to a cost-shared, integrated, nationwide network of over 100 manufacturing extension centers to help small and medium-sized manufacturers to modernize their production capabilities; and
- the Malcolm Baldrige National Quality Award program that provides criteria for assessing quality management and competitiveness and sharing information on successful strategies.

NIST aims to be a strong partner to U.S. industry. Over nine decades of working with U.S. companies, its laboratories have developed a culture of cooperation. Indeed, a recent report by the Council on Competitiveness described the NIST laboratories' process of working cooperatively with industry as "the most streamlined of all and is perhaps the best model for other federal labs to follow. \* \* \* NIST is very flexible and able to respond quickly to industry's inquiries without bureaucratic interference." [1] This traditional culture is the base upon which NIST will build to meet its new challenges.

#### NIST IN THE CONTEXT OF FEDERAL R&D

The Clinton Administration has begun to make a clear transition in technology policy. It is moving the government from the four-decade-old R&D policy based on post-World War II priorities to a policy that specifically includes an investment strategy designed to strengthen America's industrial competitiveness. NIST's programs are one important part of this transition.

The federal government is responding to global economic changes by:

- Direct investment in civilian technology for economic growth. NIST is the part of the federal R&D investment that focuses explicitly on this mission.
- Increased emphasis on directing defense R&D toward a dual-use technology base. The Defense Department's Advanced Research Projects Agency has led technology efforts to foster the growth of an integrated industrial base that is economically competitive and able to meet military needs. This approach is now expanding to other parts of the defense investment.
- Increased industry access to commercially useful technology developed in government laboratories for other purposes. The Department of Energy and the National Aeronautics and Space Administration, for example, are working to leverage their laboratory investments for economic benefit.
- Maintaining a strong commitment to basic science. A healthy and productive national science base—the world's best—will continue to be a critical source for future technological progress. The National Science Foundation and the National Institutes of Health are key players in this endeavor.

In the context of these new directions in federal technology policy, NIST has an important, tightly focused role to play. As the NIST budget grows, the agency's share of funding will increase but will still remain a small fraction of overall R&D spending: less than two percent of the federal allocation and less than one percent of the nation's total R&D expenditures. Working in partnership with industry and coordinating closely with other federal technology agencies, NIST can contribute significantly to the national effort to accelerate the benefits of technology for economic growth.

#### NEED-FOCUSED PRIORITIES, RESULTS-DRIVEN MEASURES

NIST programs are guided by measurement and evaluation systems that the agency uses as it sets priorities, evaluates operational performance, and assesses near- and long-term returns on agency investments and activities. Priorities are set and results are measured on the basis of benefits realized by U.S. industry.

Conferences and workshops regularly convened by NIST are among a variety of tools that the agency uses to identify industry's high-priority technology needs. Industry input helps to set the direction and emphasis of NIST programs, and it en-

courages industries and individual companies to shape and participate in new initiatives. One result of this process is high levels of industrial participation in NIST programs; another is solid agreement on technical objectives.

NIST seeks and relies on industry input on the direction and content of its program at several levels of organization. For example, the Visiting Committee on Advanced Technology, a nine-member advisory body that traces its origins to the founding of the agency in 1901 and is composed largely of industry representatives, meets quarterly to review the policies, budget, organization, and programs of the Institute. Indicative of the committee's oversight are a 1992 evaluation of NIST's strategic planning process, subsequent reviews of the strategic plans of several laboratories, and a 1993 study of the strategic direction of the Advanced Technology Program. In addition, each of NIST's eight intramural laboratories undergoes annual performance assessments by independent panels of experts from industry and academia, convened by the National Research Council.

#### CONTINUOUS IMPROVEMENT

Like any organization aspiring to world-class status, NIST must critically evaluate itself and scrutinize its programs through the eyes of its customers. Likewise, systems and mechanisms for setting priorities, evaluating performance, and measuring impacts must be continually strengthened and improved, paving the way for improvements in the quality and content of programs and services.

The focus on methods for setting priorities, evaluating operational performance, and measuring results is especially critical now, as the Administration proceeds with plans to nearly quadruple the NIST budget by 1997 and as public expectations for economic returns on the agency's technology programs increase commensurately. [See box on Scaling Up, Managing Growth.] The ATP and MEP will scale up rapidly, growing from pilot projects to programs of the size necessary to achieve national economic impact.

Each NIST program aims to accomplish objectives that depend significantly on industry's behavior, capabilities, and commitment. Measurements of performance and impact are critical, the basis for improving the effectiveness and extending the reach of NIST programs. Yet, there is little precedent in the federal government—and inconsistent results in industry—when it comes to measuring the results of technology investments.

Returns on R&D investments typically do not begin to accrue until several years after research is completed. This lag between expenditures and returns—and diffusion of expected benefits across broad sectors of the economy—makes assessments of the economic impact of most ATP projects and much of NIST's laboratory-based R&D a long-term endeavor. Because economic effects can be projected but never known with certainty in advance, NIST must select priorities carefully and rely on measures of performance and short- and intermediate-term results as it decides where and how to invest its resources.

In addition, methodologies for measuring economic impact are still evolving, and data-collection efforts confront several obstacles: the proprietary nature of certain information, the necessarily qualitative nature of some types of impacts (for example, the adoption of quality strategies or changes in the horizons and composition of corporate research portfolios), the high cost of collecting original data, and the difficulty in clearly defining criteria for quantifying job creation and job retention. Methodological and data-collection issues notwithstanding, the need to measure returns on taxpayer investments in federal technology programs is of paramount importance, and approaches to meeting this need warrant thoughtful—but action-oriented—discussion inside and outside of government.

#### ADVANCED TECHNOLOGY PROGRAM

One of the most innovative elements of the NIST technology strategy, the ATP invests directly in the nation's economic growth by supporting enabling technologies with strong potential for U.S. economic benefit.

The ATP provides funds for the early phases of technology development through cooperative research agreements to single businesses or industry-led joint ventures and research consortia. There are some legislated limits. Awards to individual companies may not exceed \$2 million, and the projects must be completed within three years. Projects by joint ventures may run as long as five years, and the ATP can fund up to 50 percent of the project. Cost sharing is required for all projects.

ATP projects are selected on the basis of a rigorous competition that considers both the technical and business merits of the proposals. One of the unique features of the ATP is this review process, which evaluates the proposal's potential economic impact, the evidence that the proposer is significantly committed to commercializing

the results of the project, and other business-related factors affecting the likelihood that successful results will be commercialized.

#### SCALING UP, MANAGING GROWTH

President Clinton's economic plan calls for increasing NIST's total budget from \$384 million in fiscal year 1993 to \$1.4 billion in fiscal year 1997. While the total NIST investment will still be a small fraction of the federal R&D budget, the growth represents a significant challenge for NIST to scale up rapidly while maintaining the quality of its activities. The agency is meeting the challenge through carefully developed management plans. The strategy is to build on NIST's proven approaches for working with industry and to achieve scale-up with minimum staff growth and bureaucratic overhead.

Two programs will account for more than half of the expected increase in the agency's budget through 1997. The ATP will grow from \$68 million in fiscal year 1993 to \$750 million in fiscal year 1997. The MEP will increase from seven manufacturing technology centers to a nationwide network of over 100 extension centers. Both programs have been pilot tested, and results attest to their potential to produce important macro- and microeconomic benefits. From their inception, the ATP and MEP have been designed to be national in scope. And, because the funds in each program are for activities performed in the private sector, neither will require large increases in NIST personnel. For fiscal year 1997, each program will operate with a total staff of under 100 staff members.

Direct funding of NIST laboratories will roughly double between fiscal year 1993 and fiscal year 1997, to about \$400 million. This increase will address a shortfall in national capability that is the result of two trends. First, during the past several decades, NIST's laboratory budget has been flat or eroding while new industries—such as biotechnology and computer networking—have emerged and the technological complexity of established industries has increased. The result has been a widening gap in our national measurement infrastructure. Second, NIST laboratories have been heavily dependent on funding from other government agencies: for example, about 25 percent of the NIST laboratory staff was supported by Department of Defense funding in fiscal year 1993. As direct appropriations for NIST laboratories increase, the agency will be better able to respond to industry needs for infrastructural technologies. The laboratories plan to offset their heavy dependence on other agencies' funding and thus only increase staff by about 10 percent through fiscal year 1997.

The Malcolm Baldrige National Quality Award program already has experienced dramatic scale-up from its establishment in late 1987 by Congress to its first awards the next year to a full-scale program with national and international impact. With pressing needs to move quality management principles into the practices of education and healthcare organizations, NIST is readying pilot efforts leading to full-fledged award programs in 1996.

The nature of the ATP poses unique challenges for effectively setting priorities and evaluating the results of the program:

- The potential ATP client base—effectively all of U.S. industry—is huge and diverse, covering all areas of technology and ranging from small entrepreneurial start-ups to major multinational corporations. The ATP relies on substantial input from this diverse industrial base to define and implement its programs. The challenge is to run a program that responds effectively to the priorities of this heterogeneous community.
- The time line for ATP payoff is relatively long. The ATP does not support product development, but rather the development of key technologies that enable innovative new or improved products, services, and industrial processes. While the goal of the ATP is to foster significant economic benefits for the United States, the greatest benefits will flow from products, services, and processes that will be developed after an ATP project itself is completed. The challenge is to set up an evaluation strategy that considers both the immediate performance of the program and its effectiveness in the long run.

#### SETTING ATP PRIORITIES

A central tenet of the ATP since its inception in 1990 always has been that its research priorities should be set by industry rather than the government. The pur-

pose of the program is not to impose government's judgment of the best opportunities for commercial success, but rather to enable industry to pursue certain high-risk projects that, if successful, would enable significant economic benefits for the country. U.S. industry invests tens of billions of dollars annually to turn "technology" into products, profits, and jobs. The relatively minor funding from the ATP is meant to extend industry's reach, to foster riskier projects that would not be pursued by private funds alone.

During the pilot phase of the ATP, NIST held general competitions for ATP funding, open to all areas of technology. All project ideas come from industry. Candidate projects are not evaluated on the basis of what technology is proposed, but on how sound the proposal is within that technology and on the projected economic impact. Specifically, proposals are evaluated on: scientific and technical merit; the potential broad-based economic benefits; plans for eventual commercialization of the research; the experience and qualifications of the proposer; and evidence of the proposer's level of commitment to the project, and clarity and appropriateness of the proposer's management plan.

As it grows from a pilot program to a full-scale activity, the ATP requires a more sophisticated approach to setting investment priorities. Even at the Administration's proposed funding level of \$750 million per year by 1997, the ATP will represent less than one-half of one percent of the nation's R&D budget. To obtain maximum benefit from its investments, the ATP will devote the bulk of its funds to selected, focused program areas.

ATP focused programs will have aggressive, well-defined technological and business goals, generally involving the parallel development of a suite of interlocking R&D projects. By managing groups of projects that will complement and reinforce each other, the ATP will be able to have the greatest possible impact on technology and the economy.

The key to this plan is a system for selecting program areas that retains the strong industry orientation of the ATP. The approach is analogous to that used in project selection: let the ideas come from industry and select on the basis of clear evaluation criteria.

The criteria for selecting focused program areas for ATP investment resemble those used for project selection: potential for U.S. economic benefit; strength of the technical ideas; evidence of strong industry commitment; and the opportunity for ATP funds to make a significant difference.

ATP competitions within the focused programs will support specific projects, using the same procedures and selection criteria used for general competitions. While most of the ATP's resources in the future will go to specific focused programs, the ATP will continue to hold general project competitions open to any and all areas of technology, holding the door open to promising ideas that don't fit into any current program. (See Reference 2 for a complete description of the process being used to define focused programs and to solicit program ideas.)

**ATP Evaluations** From its start, the ATP has emphasized detailed evaluation as critical to an effective, results-oriented program. The evaluation plan for the ATP as a program has five principal elements and stresses measurable goals whenever meaningful: assessing the ATP's own critical operational activities; "portfolio" profiles of applicants, recipients, technologies, and projects; evaluation of industry's implementation of both the R&D and business components of ATP projects; tracking short-term and intermediate project results; and measurement of long-term economic impacts.

There is one important overriding consideration: The ATP does not expect every project or program to be a success. The ATP is supposed to foster high-risk projects that would not be undertaken without its support. In fact, too high a technical success rate would suggest that the project selections are overly conservative. Thus, ATP's success must be evaluated from the perspective of portfolio management, for which the key measures are aggregate returns on the full set of ATP-funded technologies.

Performance of critical operational activities is a measure of the ATP as a service organization. To be effective, the ATP must work smoothly with private industry and, like industry, must be agile and responsive to a rapidly changing technological frontier. Operational activities include: soliciting and evaluating proposals; promoting a widespread understanding of the ATP and its opportunities; providing constructive feedback to proposers whose projects were not selected; providing additional support to selected projects, by initiating links to related research programs, for example; and monitoring the progress of projects.

Typical questions include: How well known is the ATP in industry? Is industry responsive to ATP solicitations? What steps are taken to ensure high-quality propos-

als to the ATP? How thorough is the review process? And—very important—how do the program's immediate customers—the companies the ATP works with—view it?

Considering the relatively low levels of funding in its first three years as a pilot program, the ATP has engendered a particularly strong favorable response from industry. In four competitions, the ATP has received nearly 1,000 applications, performed more than 2,000 technical evaluations and more than 700 business evaluations (only the highest-scoring proposals in the technical evaluation go on to a business evaluation), and made awards to nearly 90 projects.

In addition to numerous talks and briefings by ATP personnel around the country, four conferences have been sponsored to help potential applicants with the fine points of the proposal process. Oral "debriefings" have been made available to all unsuccessful applicants.

The ATP sponsors third-party studies of award recipients to get customer feedback. Comments on interactions with the ATP staff have been uniformly positive. For instance, the vice president of a small company stated, "The personnel within the ATP have been the most responsive of any government organization that I have dealt with over the years. This is extremely critical. The commercial markets in technology-related fields move very fast, and a needless delay can kill a promising technology or leave it to be taken over by foreign competition."<sup>[3]</sup>

Profiles of applicants, recipients, technologies, and projects enable the ATP to assess how well it meets goals of reaching a broad spectrum of technologies and stimulating private R&D. Typical questions include: Can small businesses compete effectively for ATP awards? How does the ATP affect R&D trends in private industry? What technologies tend to receive the most awards? What is the geographic distribution of ATP participants? How do the ATP projects reflect critical national technology goals?

Analyses of the projects funded to date suggest that small businesses in fact do very well in the ATP. More than 60 percent of all successful single applicants are small businesses, and small businesses are playing a critical role in 18 of the 23 ATP joint ventures, including leading six of these projects.

Profiles also suggest that the ATP has led—as desired—to an increase in joint research and development ventures in private industry. In the first four competitions, approximately 125 joint ventures involving over 800 organizations were formed to apply to the ATP.

While the ATP has demonstrated considerable breadth in its pilot phase, with projects from fields such as manufacturing processes, medicine, pollution abatement, transportation, energy conservation, and even agricultural pest control, proposals have been concentrated in certain areas: information technologies (including electronics), advanced materials, manufacturing processes, and biotechnology. ATP projects can be found in every subcategory of the "critical technologies" list prepared by the Office of Science and Technology Policy.

Evaluation of industry's implementation of both the R&D and business components of ATP projects tracks how well businesses follow through on the business and commercialization strategies outlined in their ATP proposals. NIST considers this an important element, because financing research for its own sake is not a goal of the ATP. It also encourages the award recipient to constantly reevaluate the commercial opportunities opened up by ATP research in rapidly changing technologies, and allows ATP managers to understand how business strategies change as projects evolve.

ATP project managers collect the information during quarterly, year-end, and end-of-project reviews. The ATP is field testing a new, customizable, questionnaire designed to gather more detailed data than are now available. A key goal is to gather the information in a manner that allows for easy updating and minimizes the reporting burden.

Tracking short-term and intermediate project results provides an indication of the ATP's immediate effect on the companies that participate. A number of measurable short-term effects are expected to provide indicators of long-term economic success. In addition to straightforward tracking of technical milestones, these indicators include: increased R&D investment and R&D in new areas leveraged by ATP funds; increased industrial collaborations and strategic alliances; strengthened technological infrastructure (through the development of new enabling technologies); shortened R&D cycles; investment in production capacity; and productivity improvements.

A variety of tools are used for these analyses, including data gathered by ATP project managers, studies done by participating companies, and third-party reviews and surveys conducted as part of the ATP evaluation program.

After four competitions, the ATP has committed to \$247 million, leveraging approximately \$268 million in industry investment in R&D. Early results from this pilot phase of the ATP indicate that the program is making an impact.

In addition to the increase in industrial joint R&D ventures noted above, a third-party survey of early ATP award recipients found that the participants cited the ability to pursue promising lines of research that they otherwise could not have followed as the most important effect of the ATP.[3] Forging new relationships between companies, and between companies and government or academic labs, was rated by participants as the second most important effect of the ATP.

Another third-party study found that total U.S. R&D work on advanced technologies for printed-wiring boards (PWB's) essential to all modern electronic devices more than quadrupled as a result of the ATP.[4] As a direct result of the ATP, major research consortia have been formed to pursue advanced technologies in mass data storage and flat-panel displays, two technologies considered key to future information technologies. Other consortia have been funded in the areas of biotechnology, automated manufacturing, and advanced materials.

ATP participants also have cited dramatic reductions in development time and significant productivity gains—participants in the PWB project estimated average productivity gains of 30 percent in major program areas.

Long-term economic impact is the bottom line for the ATP, and its measurement is key. Program goals include increased U.S. economic growth, increased industrial competitiveness, and creation of high-value jobs. Measures of the long-run success of the ATP include: creation of new industries or new industrial capabilities; improvements in manufacturing costs, product quality, and time to market; increased worldwide market share; job creation; and private and social rates of return on investment.

At present, it is too early to measure long-term impacts. Several products incorporating the results of ATP-supported research have been introduced or are near commercialization. In addition, one company has introduced ATP technology into a manufacturing process on a pilot scale, but in general almost all ATP projects are still in the R&D phase of product development. In most cases, it will take several years before a long-term effects study will be feasible.

The planned approach to these long-term studies is to use microeconomic case studies to estimate specific benefits and costs of new technologies developed under the ATP. This approach is in line with generally accepted economic analysis techniques. Specific projects and programs for detailed study will be selected using statistical sampling techniques.

The measurement of long-term economic impacts of the ATP requires three major efforts: development of quantitative measures of the degree of influence or effect that the ATP has on the introduction and diffusion of each new technology it supports; development of quantitative and qualitative measures of the influence or effect of each ATP-funded technology on the economy; and estimation of private and social aggregate economic benefits and costs from each new technology developed under ATP funds.

#### NIST LABORATORY PROGRAMS

NIST's eight laboratories serve all sectors of U.S. industry through tightly focused research programs and services that address industry's needs for measurement and infrastructural technology. Industry traditionally underinvests in the development of these infrastructural technologies because they are used simultaneously by many firms and typically are not embodied in products, making it difficult for individual firms and even industries to recover R&D investments. However, measurement methods, evaluated data, process models, interface standards, and other types of infrastructural technologies are pacing factors in technology development and application, setting the upper limit on what can be accomplished in the laboratory or on the factory floor.

As noted in a recent report by the Office of Technology Assessment, NIST's laboratory program occupies a "unique niche in the nation's infrastructure." The report also characterized the program's core competency and preferred problem-solving approach:

NIST has earned a worldwide reputation for impartiality and technical excellence. Its competencies in metrology—the science of measurement—span a number of disciplines. The efficiency of solving a measurement problem once at NIST and then disseminating the results throughout the whole industry, rather than each company performing the job independently for itself, provides outstanding leverage for NIST's metrological development.[5]

NIST's evaluations of industry's technology needs indicate widespread demand for enhanced measurement capabilities, and industry's own analyses concur. For example, a 1993 assessment by the Semiconductor Industry Association (SIA) identified unmet measurement needs as impeding the U.S. semiconductor industry's progress toward accomplishing critical technology goals. SIA called on NIST for increased assistance, describing the agency as the "only place in the U.S. where the broad range of measurements needed for semiconductor processing are routinely and systematically developed." [6]

Similarly, the Council on Radiation Measurements, which represents more than 150 U.S. companies, asked NIST to improve the accuracy of measurement standards for optical and infrared radiation by a factor of 10. The request was motivated by the companies' desire to improve quality control in a variety of manufacturing processes. The collaboration has produced a cryogenic radiometer that is possibly the most accurate in the world and is being tested in a number of applications.

#### SETTING LABORATORY PRIORITIES

NIST's laboratories set their priorities in consultation with industry in accordance with six guiding criteria: the magnitude and immediacy of industrial need; the degree of correspondence between a particular industrial need and NIST's mission to develop infrastructural technologies; the opportunity for NIST participation to make a major difference; the nature and size of the anticipated impact resulting from NIST's participation; NIST's capability to respond in a timely fashion with a high-quality solution; and the nature of opportunities afforded by recent advances in science and technology.

NIST's laboratories try to anticipate the measurement and other infrastructural technology needs of industry. The ideal is to have solutions available before prospective problems and challenges materialize as actual obstacles in product development, manufacturing, market transactions, or other industrial and business activities. If NIST does not respond early to looming technological hurdles, the effectiveness of its laboratories is diminished. Therefore, failures to anticipate major technology needs also must be taken into account as the laboratories' priority-setting performance is reviewed.

In their strategic planning, the laboratories employ a variety of formal and informal mechanisms for soliciting industry input and gauging its priorities. Formal mechanisms include NIST-convened conferences devoted to eliciting and synthesizing company and industry-wide views on key technical challenges and major goals in important technology areas. In 1993, 40 priority-setting conferences were convened to address topics ranging from "green" manufacturing technologies to technical issues in network security.

Over the past two years, a series of conferences focused on measurement needs arising from tightening dimensional tolerances in manufactured products from integrated circuits to aircraft. Responding to the needs voiced by representatives of the \$15 billion U.S. gear manufacturing industry, NIST joined with the American Society of Mechanical Engineers and the Department of Energy's Oak Ridge Y-12 plant to create a NIST/DOE Center for Gear Metrology at the Y-12 facility. The unprecedented interagency collaboration is now under way.

Other formal mechanisms for assessing industry priorities include the agency's Visiting Committee on Advanced Technology, an advisory body primarily composed of industry representatives. Industry also is well represented on independent assessment panels. Organized by the National Research Council, these panels annually review the performance of each NIST laboratory and evaluate its short- and long-term goals.

Each laboratory has cultivated strong working relationships with industrial, trade, and professional organizations in its areas of technology concentration. The program of NIST's Building and Fire Research Laboratory, for example, is guided by a prioritized research agenda developed by volunteer experts from the building and fire communities under the auspices of the National Institute of Building Sciences. NIST personnel also participate actively in industry-organized technology-planning exercises. Recent examples include the Semiconductor Industry Association's initiative to develop a comprehensive technology road map and the 21st Century Manufacturing Enterprise Strategy Project. [7]

The laboratories also solicit industry input through formal surveys and through reviews of NIST-prepared planning documents and needs assessments. In early 1993, the Electronics and Electrical Engineering Laboratory issued a definitive assessment of measurement needs in nine fields of electronics technology. Developed in consultation with industry, the 448-page document, "Measurements for Competitiveness," identifies high-impact measurement capabilities that are widely needed

by the U.S. electronics industry but are beyond the resources of individual companies to develop.[8] It serves as explicit guidance for setting the laboratory's priorities.

Other means of assessing industry's infrastructural technology needs include: visits to companies; participation on more than 800 national and international standards committees; measurement "round robins," which provide a comparative basis for assessing the current state of measurement practices employed by industry and for identifying key technical problems; joint demonstrations and experiments to identify problems and requirements for supporting technology; regular researcher-to-researcher interactions; and participation in consortia, including the 13 cooperative arrangements organized by NIST and those organized by other groups, such as PDES Inc. and the Semiconductor Research Corp.

NIST has found it necessary to use this complete set of tools to determine industrial needs. Workshops, conferences, and surveys provide valuable information on an industry, but this information usually is not complete or specific enough to be the sole basis for program planning. In turn, company visits, participation on standards committees, "round robins," researcher-to-researcher interactions, and participation in consortia offer insight into specific company needs, and they afford the additional advantage of directly involving NIST researchers, who provide their peers from industry with a direct link to the agency's programs and projects. Thus, combining information that is specific to firms and information that can be generalized to an industry or even groups of industries is necessary to develop a balanced view of challenges facing the private sector and of the relative importance of each challenge. To assure that the proper balance has been reached, NIST publishes its planning documents for review by outside panels and by industry.

This planning process is continuous, involves most of NIST's professional staff, and provides a wealth of useful information. In developing a new program in magnetic engineering, for example, staff of the Chemical Science and Technology Laboratory solicited the views of experts at more than 50 companies and universities to identify the critical technical obstacles perceived as impeding the development and application of new thin-film magnetic materials.

Another example demonstrates how this approach is used in planning consortia. In 1991, members of the Materials Science and Engineering Laboratory visited aerospace industry companies to acquire first-hand information on problems encountered in the precision casting of metal alloys. Analysis of this information guided planning for a meeting, co-sponsored by the Aerospace Industries Association, to explore the merits of forming a consortium to improve the precision casting process. A subsequent meeting, attended by industry, university, and government representatives, resulted in a detailed technical research plan addressing issues in key processing areas and defining deliverables in forms usable by industry. Subsequently refined, that plan is now being carried out by a NIST-led consortium involving seven manufacturers, seven universities, and three federal laboratories. The effort is a distributed, cooperative undertaking, with NIST and other members performing in-house research to accomplish agreed-upon tasks that will contribute to accomplishing the consortium's four major objectives.

NIST's iterative approach to planning and priority setting enables it to respond quickly to new developments and opportunities. A clear picture of industry's needs also helps laboratory managers to determine when it is appropriate to terminate programs and reallocate scarce resources to address new, higher priority problems that have emerged. For instance, the Physics Laboratory terminated a project to provide reaction-rate data for fusion reactors and reassigned the technical staff to work on plasma-processing issues relevant to semiconductor manufacturing, which led to a productive collaboration with SEMATECH.

#### SHORT- TO MEDIUM-TERM MEASURES OF PERFORMANCE

NIST laboratories use a variety of measures to track and evaluate performance, including the value and utility of research deliverables and services. Customer feedback, gathered through a variety of mechanisms, is the laboratories' principal source of evaluative information.

Although each laboratory has its own procedures for monitoring performance and technical progress—and not all of the laboratories use every available tool—all set goals for individual projects, determined on the basis of perceived customer needs identified during planning and priority setting. Technical milestones are established for individual projects, and progress is evaluated internally on at least a quarterly basis. Customer feedback also is analyzed during project, group, division, and laboratory reviews, not only to assess performance and rates of technical progress but also to identify changes in customer needs that may warrant redirecting laboratory

resources. Besides their own internal reviews and those conducted by NIST management, all laboratories undergo annual assessments by external panels convened by the National Research Council. These assessment panels produce written evaluations of performance, missions, and short- and long-term goals—for the laboratory overall and for each division.

NIST gathers information on its primary “products”—measurements, standards, databases, process models, and the other types of deliverables produced by its laboratory program. These deliverables usually take the form of technical information that NIST makes widely available to U.S. industry. Measures of the relevance and value of this information to industry include: industry attendance, comments, and level of participation at technical workshops; number of inquiries and requests for information; attendance at technical training sessions provided by NIST personnel; commercialization of products incorporating the results of NIST R&D; and application of NIST R&D results to industrial processes.

For federal laboratories, a widely—and, perhaps, overly—reported process metric is the number of cooperative R&D agreements (CRADA's) that laboratories have entered into with U.S. businesses. Because NIST has been working with industry for more than 90 years, the agency was quick to embrace CRADA's as an additional tool for working with industry. Across the federal government, NIST has the highest ratio of CRADA's per number of technical staff and, by far, the shortest average time for processing agreements. According to “Science” magazine, “Only the National Institute of Standards and Technology, created to work with the private sector, appears to be doing what Congress intended. \* \* \* [O]nly NIST appears to have managed to embrace CRADA's without getting smothered.”[9]

CRADA tallies, however, are an incomplete measure of performance—just as the numbers of patents received and licenses issued do not capture a technology organization's full technical output and level of innovation. CRADA's represent but one mechanism for working with and addressing the technology needs of U.S. industry—effective for accomplishing some technical objectives, but inappropriate for others. In fact, most forms of NIST-provided technical assistance are non-proprietary (used by many firms) and are best accomplished without the formality of a legal contract.

Other measures and information used to assess industrial relevance, performance, and productivity of laboratory activities include: level of industry commitment to NIST projects and consortia (e.g., number of participating companies, number of visiting researchers assigned to NIST, value of resources committed); number of guest researchers from industry; extent of NIST's contributions to industry's voluntary standards (e.g., number of standards incorporating NIST's work, number of memberships on standards committees); number of joint industry-NIST “round-robins”; and number of repeat customers.

#### MEASURES OF LONG-TERM IMPACT

In the early 1980's, NIST initiated a series of periodic assessments of the economic impacts of NIST research.[10–13] Conducted by independent researchers under contract to NIST, these third-party assessments have estimated the aggregate rates of return (also referred to as social rates of return) on work addressing infrastructural technology needs of industry. Returns on NIST work in the six technology areas evaluated thus far range from 63 percent to 423 percent, greatly exceeding the average rate of return on private-sector innovations and the rates reported in the few studies of other government research programs. To economists, this disparity implies underinvestment in R&D aimed at developing measurement methods and other infrastructural technologies.

An example is NIST's work supporting the U.S. optical fiber industry.[11] NIST-developed measurement technologies served as the basis for more than 20 industry standards that have helped reduce market transaction costs arising from disagreements between optical fiber manufacturers and their customers. The standards established a solid basis for evaluating the technical performance of fibers. The social rate of return was estimated to exceed 400 percent, and one manufacturer has credited the standards with significantly expanding the size of the market for optical fibers.

In addition to the series of case studies of economic impact, which is continuing, NIST also is placing increased emphasis on tracking how companies and industries use specific services and the results of specific R&D projects. For example, the Visiting Committee on Advanced Technology studied the commercialization of NIST innovations that have won “R&D 100 Awards” in the annual competition sponsored by “Research and Development” magazine. Between 1973 and 1990, NIST won 71 R&D 100 Awards; about three-fifths of the innovations (41) achieved commercial impact.[14] NIST also has begun to prepare a series of brief “industrial impact state-

ments" that are intended to capture the nature of the laboratories' assistance to companies or industrial sectors, including resulting improvements in products or services, processes, and market performance, as well as jobs created.

#### MANUFACTURING EXTENSION PARTNERSHIP

The Manufacturing Extension Partnership, or MEP, is a growing nationwide network of manufacturing extension services that provides small and medium-sized U.S. manufacturers with technical assistance as these firms modernize their operations to increase their competitiveness. Comprising the core of the nation's manufacturing base, the more than 370,000 U.S. manufacturing establishments that employ fewer than 500 people often are, as characterized in a recent National Research Council study, "operating below their potential. Their use of modern manufacturing equipment, methodologies, and management practices is inadequate to ensure that American manufacturing will be globally competitive." [15]

A variety of obstacles hinder small and medium-sized manufacturers' modernization efforts. Those that impede the adoption of appropriate modern technology and organizational methods include lack of resources and in-house technical expertise, limited awareness of changing manufacturing technology and its applications, and difficulty in locating unbiased sources of information and technical assistance. Viewed from a national perspective, currently available public and private sources of assistance—which range from large companies' supplier-improvement programs to small, local industrial outreach programs and private-sector consultants—are fragmented and vary greatly in breadth and depth of services. Collectively, they reach only a small fraction of small and medium-sized manufacturers whose existence is threatened by continued reliance on outdated technology, production techniques, and management practices.

By providing leadership and building a national framework for the delivery of manufacturing extension services, NIST's MEP will organize a comprehensive, yet locally responsive, system to help small and medium-sized manufacturers upgrade their equipment, techniques, and operations. From a base of seven regional Manufacturing Technology Centers (MTC's), established between 1989 and 1992, the MEP is planned to grow to over 100 extension centers by 1997. Linked by a coordinating national infrastructure, each center and each partnering organization will be an entry point into an integrated network of technical resources, services, and expertise on topics ranging from computer-aided design and manufacturing to just-in-time inventory methods to workforce training.

The evolving MEP network has several components: regional MTC's, or MTC-like service providers, located in areas of high manufacturing density; Manufacturing Outreach Centers, or MOC's, which serve areas of lower manufacturing density, either as free-standing entities or as MTC satellites; the State Technology Extension Program, or STEP, which provides funding and technical support for planning, implementation, and regional linkages to strengthen industrial extension efforts in the states; and "LINKS," which encompasses the national structure of communications, data systems, evaluation, field-agent training, tool development, and linkages with technology sources.

NIST's MEP staff have played a key role in the review and merit-based selection of winners of deployment awards made under President Clinton's Technology Reinvestment Project (TRP), which is managed by the Defense Department's Advanced Research Projects Agency. NIST is managing 42 of the 70 TRP deployment activities selected to date, and these activities will be incorporated into the manufacturing extension network. Recent TRP award winners include 22 new centers that will enable NIST to accelerate development of the MEP network.

#### SETTING PRIORITIES

*Guiding Principles.*—The design and evolution of the national manufacturing extension network are guided by several basic principles that broadly define the MEP's priorities, operational and organizational philosophies, scope of services and activities, and strategic emphases.

First, all recipients of MEP funding are selected through merit-based competitions that assess how fully each candidate satisfies the criteria established for each component of the network.

Second, service providers in the MEP network tailor assistance and technology solutions to the needs and constraints of client firms, including budgets and workforce capabilities. The providers are client-driven, not provider-driven.

Third, extension centers and other components of the MEP network are not supported to perform manufacturing R&D, concentrating entirely on the diffusion of appropriate technologies to speed industrial modernization.

Fourth, the MEP is inclusive, and it prevents duplication of effort by emphasizing a network design that takes maximum advantage of the knowledge, experience, and expertise of a broad spectrum of existing organizations.

This principle yields two other, closely related characteristics that are key:

- The network is non-hierarchical. It builds on grassroots proposals motivated by and tailored to the needs of local industry and allows local flexibility and innovation in addressing those needs, while providing the technical support and resources of a national infrastructure.
- The MEP does not compete with private technical consultants; it recognizes the important role that these consultants play in helping small and medium-sized manufacturers improve their operations. The NIST MTC's have developed constructive relationships with private consultants, who can help the centers extend their reach and broaden the range of technical assistance and expertise accessible through the MTC's. At the same time, in many cases, MTC activities help private consultants expand their reach by qualifying small manufacturers and helping them understand the value of consulting services. To ensure a clear understanding of this relationship and to avoid potential conflicts, MEP staff are now evaluating how private consultants serve small manufacturers and what role the MTC's play in that process.

*Selection Criteria.*—Separate selection criteria have been developed for each MEP component, although there is substantial overlap because of shared objectives. All centers and projects are selected only after undergoing competitive review. The criteria used to evaluate proposals for new centers are representative:

- Knowledge of target firms: Comprehensive understanding of an area's manufacturing base, including business size, industry types, product mix, and technology requirements.
- Technology resources: Linkages to external sources of technology, including educational institutions, state and regional technology transfer programs, and federal laboratories.
- Delivery mechanisms: The staff, resources, and methodology for effectively delivering appropriate manufacturing technologies and techniques to local or regional manufacturers, as well as the ability to form effective partnerships with other organizations offering complementing services or resources.
- Management and financial plan: An effective management structure, full-time top management, additional sources of funds, and an effective system of internal evaluation.

#### PROGRAM EVALUATION

In preparing for the MEP's expansion, staff members are developing a strategic plan that integrates the functions of each service-delivery component of the network and lays the methodological foundation for evaluating program performance and measuring results. A national, standardized system of data collection and evaluation will enable MEP staff to assess the efficiency and effectiveness of the entire network, each network component, each type of extension service, and each service provider. The evaluation system will identify the services most valued by small and medium-sized manufacturers; characterize the types of firms and industries that make the greatest use of manufacturing extension services, as well as those that make the least use of services; prevent duplication of effort; and measure economic impact at levels ranging from individual services and centers to the MEP as a whole.

*Measures of Organizational Performance.*—All MEP organizations are required to submit detailed quarterly and annual reports, standardized for each of the four components of the network, and they undergo annual performance reviews by MEP regional managers. At the end of the third year of operation, extension centers undergo rigorous evaluations by outside panels appointed by NIST.

Reported quarterly by each center, the following types of information help MEP management to evaluate overall performance of the MEP organizations and to assess market penetration (i.e., number of client firms relative to the size of the potential client base), the mix of services provided, the breadth and depth of organizational linkages, and the ability of the center to generate revenue to support operations: staff composition and percentage of employees working with clients in the field; number of establishments served, by size; ratio of the number of technical assistance projects proposed to client companies to the number initiated; number of activities initiated, by type of activity (e.g., formal assessment, technical assistance project, initial site visit, information referral), technical focus (e.g., control systems; plant layout; computer-aided design, manufacturing, or engineering), and size of firm; number of participants and number and types of firms represented at training programs and other events; and results of client valuation surveys.

Upon completing technical assistance projects, the centers ask client firms to assign values to the services provided. Clients estimate the impact that the just-concluded project will have on company performance over the next 12 months.

Specifically, firms are asked to estimate the anticipated impact of the project on sales, costs, capital spending, inventory levels, and jobs (number created or saved). Although subjective, these measures provide center management and personnel with the means to ascertain levels of customer satisfaction and to differentiate among clients' perceptions of the type and magnitude of benefits attributable to center activities.

MEP management fully appreciates the importance of measuring performance, but it also recognizes the need for flexibility in reporting formats, particularly for pilot projects that are testing experimental services and service-delivery mechanisms. Overly rigid process and outcome measures could yield data that provide little meaningful information for evaluations of performance and impact and, at the same time, inhibit experimentation and innovation. Successful "LINKS" and extension enabling TRP projects, for example, may provide services that indirectly affect manufacturers but directly improve the quality and accessibility of information and services provided by extension centers. Measures of performance and results are being developed for these kinds of activities, with the recognition that what gets measured gets emphasized and that not all measures are equally significant for all types of activities and MEP components.

*Measures of Economic Impact.*—In addition to evaluating the performance of each extension center, NIST also measures each center's specific impact on client companies. In contrast to the ATP and NIST's laboratory programs, the MEP is expected to generate economic benefits within a short time span. Indeed, MTC client firms reported substantial benefits, including cost savings, higher productivity, and increased earnings, within the first year of each center's operation.

Though necessarily small in scope because of the limited scale of manufacturing extension efforts undertaken thus far, the results of analyses—supplemented by case studies and other anecdotal evidence—illustrate the large potential for significant economic and company benefits. [15–18] Cumulatively valued and based on self-reported data from MTC client firms, company-realized benefits from formal MTC technical assistance projects totaled an estimated \$320 million between 1989 and 1992, translating into a return of over \$7 on each federal dollar invested in the centers. This estimate undervalues the impact of some MTC services, such as seminars and information referrals. Many firms consider these "soft" services to be very beneficial, even though their impact is difficult to quantify.

For the network's individual extension centers, as well as for the MEP as a whole, the fundamental unit of analysis is and will continue to be individual firms. On an annual basis, the MTC's also administer questionnaires to ascertain the progress made by client firms. One year after the completion of a technical assistance project or other substantive interaction with a center, client firms are asked to assess their progress and business health by comparing information in key performance areas one year before and one year after projects have been completed. The before-and-after assessment considers three levels of outcomes, which will be analyzed in relation to a "control" group.

Base-level client outcomes serve as indicators of how successfully centers are assisting firms in adopting appropriate technologies and management practices; making more use of capital, labor, and materials; and improving response time and other key aspects of manufacturing performance. These measures are: changes in scrap rate (value of scrap per sales—an indicator of quality and of efficiency of material use); changes in computer use (percent of employees using computers or programmable machine controllers at least weekly—an indicator of broadening applications of computers, the essential element of many new manufacturing and business technologies); and changes in inventory turns (ratio of sales to inventory—an indicator of increasing throughput, which may be the result of improved layout, scheduling, and routing).

Intermediate-level client outcomes are designed to reflect changes that stem from performance improvements at the base level of operations, although these changes may take longer to materialize. These include: changes in the ratio of sales per employee—an indicator of increased labor productivity; and changes in manufacturing lead time—an indicator of decreased response time to customer orders.

Top-level client outcomes reflect business and employment gains traceable, at least in part, to operational improvements captured by the previous categories of measures. Among the outcomes measured are: change in total sales, change in export sales, change in employment, and change in employee income (payroll per employee).

Although these objective outcome measures may not correspond directly to the extension services provided, they are easily tracked by client firms, and they have the virtue of being related, at least indirectly, to the substance and aims of most service activities. As they come on line, all MEP service providers will be required to submit client progress reports based on surveys to ascertain the performance of firms in the years before and after completion of an extension service activity.

The MTC's are currently collecting 1990 and 1992 data from firms that they assisted in 1991. Results of client progress surveys of 28 firms assisted by the Great Lakes MTC in 1991 are illustrative. [16] For example, the firms reduced their manufacturing lead times by an average of 22 percent and reported average increases of: 13 percent in sales, 47 percent in value of exports, 6 percent in employment, 17 percent in total payroll, and 46 percent in the use of computers or computer-controlled equipment by employees.

To increase the value of the data gathered in client progress surveys, the MEP is developing a nationwide benchmarking database on the performance of up to 1,000 plants to help companies better understand their competitive position in the marketplace. The database will build on a 300-client database developed by the Midwest MTC in Ann Arbor, Mich., which now contains performance data for five industries. This will enable the Midwest MTC to provide benchmarking service to client firms of other extension services. In addition, the expanded database will be a useful MEP management tool, enabling national-level comparisons of the performance of MEP clients with the performance of "control" firms that have not used extension services.

Because the MEP is promoting measurement and evaluation as powerful learning and management tools, it has asked the Modernization Forum, which draws its membership from the centers, to develop a guide on evaluation and associated training materials for use by project managers and manufacturing extension field agents. Training workshops are now being planned, with the first scheduled for February 1994.

Finally, the MEP will continue to sponsor third-party reviews of the extension network and its components to evaluate their effectiveness and to guide improvements in performance, including evaluation. It already has initiated several efforts to build a common understanding of process and outcome evaluation. For example, it has sponsored studies of evaluation issues and practices in industrial modernization programs, one conducted by the Georgia Institute of Technology and the other by Carnegie Mellon University. It also requested a National Research Council study of barriers and opportunities to improve the manufacturing performance of small and medium-sized manufacturers. [15] Other steps taken to build a national framework for evaluation include the continuing development of taxonomies for classifying types of services, activities, and manufacturing problems and practices as well as efforts to form a national network of evaluators comprising federal, state, local, and academic experts.

#### MALCOLM BALDRIGE NATIONAL QUALITY AWARD PROGRAM

Government-private sector partnerships are essential as the United States responds to economic challenges. The NIST-managed Malcolm Baldrige National Quality Award program demonstrates just how effective such partnerships can be. Industry pledged more than \$10 million to support the program when it was launched, and NIST coordinates the more than 90 percent of program activities that are undertaken by the private sector.

Established to promote quality awareness, to recognize quality achievements of U.S. companies, and to publicize successful quality strategies, the award is having a major effect in encouraging large numbers of U.S. companies to adopt quality improvement strategies—whether or not they ever decide to compete for the award. These corporate strategies are improving the ability of U.S. companies to compete in a more important and larger contest: winning in the global marketplace.

The program recognizes quality management excellence in three categories: manufacturing, service, and small businesses. Up to two awards can be made in each category. In the six years the award has been given, the number of winners has ranged between two and five.

Although the major focus of the award is on results and customer satisfaction, it is not given for specific products or services. To win the award, a company must have a world-class system for managing its processes and its people. The system should ensure continuous improvement. The assessment of individual companies' performance rests with an independent group of quality experts, selected almost entirely from the private sector. The assessment process itself is an iterative one, in-

volving several reviews for each applicant and providing comprehensive feedback to every company that applies.

#### SETTING PRIORITIES

The award's enabling legislation made it clear that the program was to extend beyond the selection of individual companies for recognition; it was expected to raise awareness and to provide information and incentives for U.S. industry to become more competitive in the global marketplace by incorporating proven quality management strategies.

The primary customers for this program were clearly identified as U.S. firms, and NIST's priorities for this program have been designed to ensure that all U.S. companies were targets for involvement and information. Accordingly, NIST has made major efforts to reach out to two categories of companies that seemed to be underrepresented in the early years of the award program: service sector and smaller companies.

NIST's first priority was to create a program that was credible to quality experts and business leaders and that built up a new private-sector network to do the bulk of the work in reviewing applications. The program also needed to be financially viable, relying primarily on private-sector contributions of time and funds. NIST also assigned high priority to expanding that private-sector network to involve trade and professional associations and state and local organizations to extend the reach of the Baldrige Award criteria and the impact of lessons learned by companies using quality management techniques.

Now that the award has become established and well known in the business community, NIST is beginning to expand the program into two areas of national importance: health care and education. NIST expects to scale up these initial efforts and to create separate awards in these categories if pilot programs launched in 1995 are successful and develop strong involvement and support. In developing criteria for the Baldrige Award, NIST consulted extensively with private-sector quality experts formally through workshops and informally through many meetings and presentations. The criteria are refined after annual improvement meetings involving award judges, examiners, and others from the private sector. For example, the 1994 criteria reflect a much greater emphasis on corporate responsibility and citizenship and on customer-oriented quality results than the criteria used in the initial years of the program. At this same annual meeting, the private-sector examiners also review the application and selection process. Continuous improvement is the aim of these regular reviews of the criteria, much as it is a goal of the entire award program.

#### PROGRAM EVALUATION

Just as award applicants are required to measure and show results for their quality management strategies, the award program relies on a variety of tools to evaluate program effectiveness and to measure results.

A formal advisory committee to the Secretary of Commerce reviews the program's progress. This prestigious group of national quality experts from business and academia provides an annual report to NIST and to the Secretary. Other annual reviews are provided to NIST by the Panel of Judges (which makes final recommendations on proposed winners to the NIST Director) and the Foundation for the Malcolm Baldrige National Quality Award—which has a direct interest in ensuring that NIST manages the program to make the best possible use of the funds provided by the foundation. Moreover, the House Committee on Science, Space and Technology, which introduced the legislation establishing the award, conducts an annual oversight hearing involving winners of the award, NIST, and outside experts to review the program's effectiveness and management issues.

As part of its formal evaluation process, the Panel of Judges has surveyed a sample of quality award applicants to determine their satisfaction and to gain insights into problems that they may have encountered. The NIST Office of Quality Programs reviews the information gathered through these two mechanisms and sets specific goals and actions for improvement. For example, the survey of applicants indicated a desire for more rapid feedback from the examiners on the strengths and areas for improvement in the companies' quality management efforts; after making changes in the evaluation process and a major effort, the turnaround time for feedback reports was reduced substantially from the 1991 competition to the recently completed 1993 cycle. Feedback quality also improved during this period.

Generating greater public awareness of quality management strategies and the opportunity for improvement is a major aim of the award program, and winners of the award are asked to provide detailed feedback to NIST on the conduct of the pub-

lic information portions of the program. Meetings and surveys are conducted each year, providing information that is used to revise and guide the program's information and outreach efforts.

In addition, meetings are held with past winners to review the award program's overall impact and effectiveness and to solicit ideas for changes. For example, in July of 1993, top-ranking quality officials representing 14 of the 17 companies that had won to date met at NIST to provide that feedback.

One especially useful indicator of the program's success is the level of companies' interest in the award criteria. More than 1 million copies of the criteria, which serve as quality improvement guidelines, have been requested and distributed. They are reproduced and used widely by companies and other organizations to drive quality improvement in all sectors of the economy. They serve as the basis for approximately 30 separate state and local level awards for quality, and they now are used as the model for awards in Mexico, Europe, and elsewhere around the globe. Another indicator of interest: more than 20,000 presentations have been made on quality improvement through the Baldrige Award approach—the vast majority by award winners or examiners from the private sector.

Ultimately, the program's effectiveness must be evaluated by the impact on companies' performance. Quality management is just one of numerous factors that determine a company's financial performance, and quality improvement alone is no guarantee of financial success. Still, many companies assert that their adoption of quality management practices based on the Baldrige criteria have placed them in a better financial and competitive position.

Some measures of the program's bottom-line effectiveness to date:

- A 1991 report from the General Accounting Office calls the Malcolm Baldrige National Quality Award criteria "the most widely used accepted formal definition of what constitutes a total quality management company." [19] On the basis of a survey of firms using the criteria, the report concludes that "In nearly all cases, companies that used total quality management practices achieved better employee relations, higher productivity, greater customer satisfaction, increased market share, and improved profitability."
- Soletron Corp., a 1991 award winner, noted, "Since we applied for the Malcolm Baldrige award in 1989, Soletron's sales have increased 316 percent and profit has increased 338 percent in 3 years. \* \* \* We attribute our financial performance a great deal to the improvement we made through the rigorous examination and feedback from the Baldrige application process."
- According to a "Business Week" analysis, the three publicly traded, whole company Baldrige winners outperformed the Standard & Poor's 500 from the time they won the award through September 30, 1993, by 8.6 to 1.
- AT&T's Transmission Systems Business Unit reduced time to market by 50 percent in three years.
- Zytec's internal manufacturing process yields improved fivefold from 1988 to 1992, with on-time delivery up from 75 percent to 98 percent from 1989 to 1992.
- Motorola Inc. considers the criteria for the Baldrige Award so important that it has given its suppliers until 1994 to follow the award criteria or risk losing Motorola as a customer for their products.

The overall impact of the program was described in an article in the "Harvard Business Review":

In just four years, the Malcolm Baldrige National Quality Award has become the most important catalyst for transforming American business. More than any other initiative, public or private, it has reshaped managers' thinking and behavior. The Baldrige Award not only codifies the principles of quality management in clear and accessible language. It also goes further: it provides companies with a comprehensive framework for assessing their progress toward the new paradigm of management and such commonly acknowledged goals as customer satisfaction and increased employee involvement. [20]

#### SUMMARY

In the midst of a new imperative to more effectively link government and industry in tackling technology challenges, NIST recognizes the importance of clearly spelling out how the agency sets priorities, evaluates performance, and measures economic impact. This paper provides a snapshot of those processes today for each of the Institute's four major programs. NIST seeks continuous improvement—to build upon the mechanisms already in place, to learn from others, and to more vigorously and comprehensively apply the best of the best evaluation and measurement tools. Al-

ways, the end goal must be to maximize the Institute's work with industry to promote technology for economic growth. Comments on this paper are encouraged.

Comments on this paper should be directed to: Dr. Arati Prabhakar, Director, National Institute of Standards and Technology, Gaithersburg, Md. 20899-0001. Fax: (301) 869-8972. Email: director@nist.gov.

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Dr. PRABHAKAR. Thank you.

The final thing I would like to touch on is that we have taken a hard look at our internal management approach and the issues of staff growth to go along with this increase in our budget. Our

strategy is to scale up with a minimum of bureaucracy and overhead. We really want to focus on delivering value to the industry.

And so if you look at our programs today, first of all the Advanced Technology Program and the manufacturing extension partnership, of course, their job is really to fund activities that are out in the community, either in the not-for-profits that are doing the extension centers, or in industry in the case of the Advanced Technology Program. So the staff for those activities is really quite lean this year. ATP and manufacturing extension together employ fewer than 100 civil servants. With Malcolm Baldrige, similarly, since we are really the catalyst activity that is using a tremendous number of private-sector capabilities, the staff there is very lean, fewer than 30 people.

It is, of course, our laboratories that employ the bulk of our staff. We are at close to 3,200 staff members today. As the funding in our laboratory programs is strengthened, we are really increasing staff by only a very small percent. For example, in fiscal year 1995 we plan on only about a 5-percent increase. And the reason we are able to accomplish the jobs in this case without a significant staff increase is the fact that for many years in our laboratories we have been heavily dependent on other agencies for support. And as other agency support is declining, particularly DOD support is declining, we are able to shift people to these direct resources that allow us to be much more directly responsive to the needs in the industry.

So we have a strategy that, first of all, focuses on minimizing our internal staff growth. Second, we recognize, again, that we are a fairly small part of the Government's technology community. We think it is critical to draw from the much broader technology resources across the Government. We have a lot of deep ties that go back many years with many other organizations in the other laboratories, and we are trying to build on that and strengthen that today.

Let me just conclude by reiterating that we recognize that this is an unprecedented request for NIST, a very significant request for NIST. I think that it is also the case that the need and the opportunity for this work is also unprecedented. The Secretary and the President have indicated their strong commitment to pursuing this path, the industry is committed.

And I think we are ready to go with our proven approaches in place at NIST. The fact that we are asking the basic questions about this business, the fact that we are managing to really maximize value that we can deliver to industry, we believe that we are ready to step up to the plate.

#### PREPARED STATEMENT

Thank you very much, Mr. Chairman. I would be pleased to answer questions with Dr. Good.

[The statement follows:]

#### STATEMENT OF ARATI PRABHAKAR

Mr. Chairman and Members of the Subcommittee, I welcome the opportunity to discuss the President's fiscal year 1995 budget request for the National Institute of Standards and Technology.

This year, the President is requesting \$935 million in three separate appropriations. This amount is an increase of \$414.8 million over the fiscal year 1994 appro-

priations of \$520.2 million. We are requesting \$519 million for technology development and technology transfer and outreach; \$316 million for our laboratory research and services; and \$100 million for facilities construction and renovation.

At a time when many Federal agency budgets are being cut back, NIST's budget is proposed for dramatic increases—and we are prepared to put this national investment to best use in promoting U.S. economic growth. Let me put the President's proposal in context.

The Federal government now supports about half of all of the research and development conducted by the United States, but only a relatively small proportion of that support is directly aimed at benefitting U.S. industrial competitiveness. Global technology and market changes are demanding shifts in that federal R&D mix.

President Clinton has spelled out a clear approach for making those changes, more vigorously supporting civilian technology in our post-Cold War era. Commerce Secretary Brown has helped to guide that strategy, making technology one of the department's top priorities and attracting extraordinary industry involvement and support. That speaks volumes about how both government and industry now jointly view government technology activities.

Building on the initiative first provided by Congress, NIST is now playing a much more important role in the government's technology strategies. While the NIST component of the Federal R&D budget traditionally has been a very small fraction of the total investment—less than one percent—this year we have been singled out for the largest percentage growth of any technology agency.

As government increases direct investment in civilian technology, government technology activities still must complement and support—rather than substitute for—the private sector's R&D activities. At NIST, we are guided by, and are well positioned to meet, that requirement. That is because NIST's mission is straightforward—and unique. As part of the Commerce Department's Technology Administration, NIST aims to promote U.S. economic growth by working with industry to develop and apply technology, measurements and standards. We do that through four major programs that make up a portfolio of technology-based tools:

- a competitive Advanced Technology Program providing cost-shared awards to industry to develop high-risk technologies that can enable significant commercial advances;
- a grassroots Manufacturing Extension Partnership helping small and medium-sized companies to adopt new technologies;
- a strong laboratory effort planned and implemented in cooperation with industry and focused on infrastructural technologies, such as measurements, standards, evaluated data, and test methods; and
- a far-reaching quality improvement program associated with the Malcolm Baldrige National Quality Award.

Let me briefly describe our fiscal year 1995 requests for each of these programs.

#### ADVANCED TECHNOLOGY PROGRAM

The Advanced Technology Program, or ATP, aims to accelerate commercial technology development. The ATP provides cost-shared funding to individual companies and industry-led joint ventures to develop the high-risk, high-payoff technologies that can enable significant commercial progress. The program seeks to build bridges between basic research and product development. It is designed to help companies to better exploit new scientific knowledge that demonstrates technical feasibility and removes technical barriers to commercialization. Just a few years after receiving the first awards in 1991, ATP-funded projects are beginning to yield the technical and business results that promise large payoffs for U.S. companies and our economy.

Increased funding in fiscal year 1994 has allowed the ATP program to double to 120 the number of awards expected to be made, and to establish focused programs in which proposals are sought in specific, well-defined program areas.

Through a series of public meetings with industry, we found widespread support for the idea that focused program competitions can help maximize the ATP's leverage by driving key strategic technology areas. Between October and December 1993, the U.S. technical community demonstrated this potential by submitting more than 450 ideas for focused ATP program areas.

The fiscal year 1995 request of \$451 million (an increase of \$250.8 million) for the ATP would put the program more than halfway toward President Clinton's goal of \$750 million in ATP funding by 1997—a level at which it will be a powerful national program that makes a meaningful difference to our industries rather than being just an effective pilot program that has helped a limited number of companies.

The fiscal year 1995 increase will allow the ATP to support a total of about 10 focused program and general award competitions resulting in about 200 new awards. It also will provide sufficient funds to continue to support all active multiyear projects begun in fiscal year 1994 and earlier. By the end of fiscal year 1995, the ATP would be funding 350 active projects.

#### MANUFACTURING EXTENSION PARTNERSHIP

NIST's Manufacturing Extension Partnership, or MEP, is a true grassroots effort to improve the competitiveness of small and medium-sized U.S. manufacturers. There are more than 370,000 manufacturers in the United States with fewer than 500 employees; they account for about 95 percent of all U.S. manufacturers and more than 75 percent of new manufacturing jobs. These companies have a major impact on their local economies—and on our national well-being. But to compete successfully, many of these companies need to upgrade their use of manufacturing technology, and to incorporate world-class manufacturing practices. These smaller firms often do not have the technical resources to identify, to prioritize, and to put in place many of the manufacturing improvements they need in order to survive and thrive. That is where the MEP can make a difference.

The MEP helps these companies to adopt new technologies through manufacturing technology centers, smaller manufacturing outreach centers, the State Technology Extension Program, and linking/networking technologies and programs that interconnect MEP participants into a nationwide system. That includes critical links to outreach and technical assistance programs managed by other Federal agencies—including the Departments of Energy and Labor as well as the Environmental Protection Agency, the Small Business Administration, and others. Client firms of NIST's first seven centers reported \$320 million in benefits between 1989 and 1993—a return of \$7 for each federal dollar invested in the centers. A truly national network can have enormous impact.

The geographic reach of the MEP is expanding significantly in fiscal year 1994 with the establishment of additional extension centers managed by NIST with funding from the Defense Department's Technology Reinvestment Project, led by the Advanced Research Projects Agency.

The fiscal year 1995 request of \$61 million (an increase of \$30.7 million) is a vital step in building a full-scale manufacturing extension service. It brings the MEP more than halfway toward the President's goal of 100 centers by 1997.

The increased fiscal year 1995 funding combined with remaining TRP funding will bring the total number of Manufacturing Technology Centers under NIST management to about 20, and the total number of Manufacturing Outreach Centers, which are smaller extension centers, under NIST management to about 50. It will substantially increase the availability of funding through the State Technology Extension Program to states that are starting work to improve or establish manufacturing extension programs. The increase will provide improved interconnections with other extension services provided through other Federal agencies, and it will further the linking systems needed to form a national MEP network for communications, data sharing, identification of training resources, and intensive evaluation efforts.

#### LABORATORY PROGRAMS

Our laboratory programs have long been recognized for their practical assistance to industry and their focus on infrastructural technologies that support our economy. The benefits from such enabling technologies typically spread across entire industries, and the investments needed to produce them cannot be recovered by individual companies. But there is a pent-up demand by industry for NIST research, measurement technologies, and services. While NIST has had several decades of flat or eroding budgets, entire new industries—biotechnology and computer networking, for example—have emerged, and the technical needs of established industries also have increased. We need these increases to fill the widening gap in our national measurement infrastructure. NIST is the only part of our Nation's technology enterprise that has this measurement mission and capabilities.

In fiscal year 1995, we are requesting \$316 million (an increase of \$88 million) to accelerate NIST laboratory work in five key technical areas and to open and expand foreign markets for U.S. technology. Building on smaller increases provided in fiscal year 1994, full funding of these initiatives will bring NIST more than halfway toward the President's goal of doubling the NIST laboratory budget between fiscal year 1993 and fiscal year 1997. I urge you not to overlook this less glamorous portion of NIST's budget request. Our laboratory-based efforts provide the "nuts and bolts" research and services that can and do make the difference between technological promise and practical commercial products and services.

Fiscal year 1995 initiatives will support technology for the national information infrastructure; advanced materials and processing; advanced manufacturing; biotechnology; postdoctoral fellowships; environmental technologies; and international trade, standardization, and measurement services. Our specific requested increases include:

- National Information Infrastructure: \$38.3 million to accelerate the commercialization of new information technologies by enabling NIST to expand its R&D program in areas related to high-performance computing, high-speed networking for manufacturing applications, and semiconductor manufacturing.
- Advanced Materials and Processing: \$16.8 million to better understand and control materials so that industry can bridge the gap between technologies and processes that work in the laboratory to use in commercial, full-scale production system; this request also will enable NIST to better integrate advanced materials with design and manufacturing requirements.
- Advanced Manufacturing: \$18 million to expand NIST's assistance to U.S. industry in the areas of precision manufacturing, assembly and inspection; integrated tools for product and process engineering and design; and advanced manufacturing technology infrastructure.
- Biotechnology: \$4.25 million to develop biotechnology modeling and the measurement and data tools need to accelerate commercialization of bioproducts through improved product design, process optimization, and quality assurance for novel food products, environmental applications, human therapeutics, and sensor technology.
- Postdoctoral Fellowship Program: \$1 million to add 12 new National Research Council postdoctoral fellowships to parallel increases in the Institute's laboratory program and contribute to the quality of NIST industry-oriented lab research.
- Environmental Technologies: \$4.95 million to advance the goals of sustainable development by expanding NIST research on reference materials, databases, and advanced measurement technologies needed to reduce pollution, conserve resources, and enhance international competitiveness.
- International Trade Standardization and Measurement Services: \$4.7 million to establish coordinated and comprehensive measurement services, information, and standards programs to help open and expand foreign markets, increase exports, and enhance U.S. technology development and commercialization.

#### FACILITIES

The current replacement value of NIST's facilities is over \$2 billion. Most of these were constructed in the 1960's and 1970's. It already is impossible for the Institute to provide some U.S. manufacturers with essential services, such as state-of-the-art calibrations urgently needed to maintain production-line quality controls on a par with overseas competitors. Lab controls that were more than adequate when facilities were first constructed between 30 and 40 years ago are inadequate for the more sensitive work today. Power supplies are regularly interrupted by lack of system capacity and local weather, resulting in costly delays and rework.

The Administration and Congress have endorsed NIST's plan to upgrade its facilities through a \$540 million, 10-year effort. During the first 2 years, NIST was appropriated \$105 million for fiscal year 1993 and \$62 million for fiscal year 1994. The fiscal year 1995 request of \$100 million is vital for NIST to continue the facilities improvement program and to carry out its mission as the nation's premier measurement technology laboratory.

#### MALCOLM BALDRIGE NATIONAL QUALITY AWARD PROGRAM

Quality goods and services are at the heart of any nation's prospects for success in the global marketplace, and the Malcolm Baldrige National Quality Award Program has been extraordinarily successful in helping U.S. industry to meet the quality challenge. Well over 1 million copies of the Malcolm Baldrige National Quality Award criteria have been distributed worldwide—just one indicator of the program's reach in recognizing and promoting improvements in quality management by manufacturers, service companies, and small businesses. The award is having a dramatic effect, making a previously amorphous concept both concrete and achievable for thousands of U.S. companies. That has led to both improved customer satisfaction and profitability for these firms.

The fiscal year 1995 request of \$6.9 million (an increase of \$4 million) would begin a pilot program to extend the benefits of the award program to the U.S. education and health care communities. Both of these important sectors of our economy in-

creasingly realize that the principles of quality improvement being practiced by businesses can yield similar benefits for education and health care.

Pending a successful trial and full support from both sectors, NIST would recommend establishment of these two categories to the Secretary of Commerce in fiscal year 1996. In fiscal year 1994, we are testing criteria and trial examiner selections. NIST is also working closely with the Departments of Education and Health and Human Services on this effort.

#### DELIVERING VALUE TO U.S. INDUSTRY

The President is asking Congress to make a much larger investment in NIST's civilian technology programs. We are confident that we can meet the challenge and help strengthen the U.S. economy. We recognize that our programs must be closely coupled to U.S. industry's goals and priorities—and we have nearly a century of proven interactions with industry to build upon. We also have had terrific engagement with industry in our newer programs—the Advanced Technology Program, Manufacturing Extension Partnership, and Malcolm Baldrige National Quality Award program. In each, we are beginning to see real impact.

#### SETTING PRIORITIES AND MEASURING RESULTS

In building our programs to stimulate civilian technology for economic growth, we are charting a new course for Federal R&D. Two pivotal questions must guide our efforts. First, how do we set priorities for investing taxpayers' dollars? And second, once the investments are made, how do we assess their impact? The short answer is that NIST's priorities are set and results are measured on the basis of benefits realized by U.S. industry—industry's needs drive our efforts. I would like to submit for the record a report we recently produced that answers those questions in more detail. It was prepared to promote discussion and invite constructive criticism from industry, academia, government agencies, and others. The response—especially from industry—has been very positive.

#### SCALING UP AND MANAGING GROWTH

We also have addressed other critical management issues for each of NIST's four programs as we scale them up for national impact. Our strategy is to scale-up with minimum staff growth and bureaucratic overhead.

Both the ATP and MEP have been pilot tested and designed from inception to be national in scope. Because the funds in each program are for activities performed in the private sector, neither will require large increases in NIST personnel. For fiscal year 1995, these programs will operate with a total staff of about 100.

NIST laboratories have been heavily dependent on funding from other government agencies. As direct appropriations increase, we will be able to better respond to industry needs for infrastructural technologies by reducing activities for other government agencies. That will enable NIST to better meet industry's priorities while increasing staff by only about 5 percent by fiscal year 1995.

Our Baldrige Award program is a veteran of scale-up, moving from establishment in late 1987 to full operation the next year. NIST is readying pilot efforts that could lead to full-fledged award programs for the health care and education communities in 1996—once again, with little staff growth due to the heavy involvement of the private sector. This program will operate with fewer than 30 staff members in fiscal year 1995.

A key factor in successfully scaling up will be our ability to closely coordinate and leverage our capabilities in the other technology-oriented Federal agencies. We have long-standing relationships with the Departments of Defense and Energy, NASA, and literally dozens of other agencies. In the past year, as other agencies have paid closer attention to how their resources can be brought to bear on our civilian technology base, and as the role of the Commerce Department, the Technology Administration and NIST has been strengthened, these interactions have intensified. We intend to build on this base of cooperation, and to work with other agencies whenever it will help us to fulfill our unique mission of strengthening U.S. industry and the economy through the development and application of technology, measurements and standards.

#### CONCLUSION

The size of NIST's requested budget increase for fiscal year 1995 is unprecedented, especially at a time when Federal spending must be held tightly in check. But the magnitude of U.S. industry's technology challenge is also unprecedented, and the President is committed to investing more heavily in civilian technology.

These investments must be designed to make a real difference for U.S. industry and for our economic strength. With a proven track record of success, and with explicit plans in place to scale-up and manage this growth, NIST's fiscal year 1995 proposals can provide exactly the kind of support U.S. industry needs in a technology-driven global economy.

Mr. Chairman, this concludes my statement, I will be pleased to answer any questions that you may have.

Senator HOLLINGS. Very good. I have got just a couple of questions, particularly on the outlays and how that is assessed, particularly when you assess technology policy. And the statement made about science winning the cold war. You know, science did not win the hot war, and I do not know whether science is going to win the trade war. That element has always got to be foremost in your mind.

I am superduper on technology, but I am superduper on trade. And I have seen it under Eisenhower, who had the task of trying to get the Northern textile industry—and this is now over 40 years—we find out that cloth manufacture, through technology, is only 3 percent of cost. Labor is only 3 percent of the cost of making that cloth, so American textiles and apparel can compete, actually, with slave labor in China because of the distance advantage that we have. So that is all right. So they spun off from poor power.

We have got a good TC<sup>2</sup> program down there at Raleigh. We have got another program down there, you know, a joint one with Auburn and Georgia Tech, Clemson, NC State—the National Textile Center. But that technology has got to be extended even in those less technologically adept industries. I see it dramatically in my own back yard—in South Carolina. We never have manufactured an automobile in our State's history, but we will be manufacturing BMW's 2 years from now. Alabama has never manufactured a car, but they will be manufacturing automobiles. They did not go to Detroit, and these German entities who had all the technology.

So there is another element always in your assessing that technology and the need. I would say even at the plebeian industries, as well as the patrician industries, it has got to be always kept in mind—because I do not know if science is going to win this trade war unless we really get a competitive trade policy to go with it.

#### OUTLAY ESTIMATES

Dr. Prabhakar, the budget assumes NIST external programs will outlay or spend out at 18 percent, but the CBO says they spend out at 32 percent, and that is the way CBO scores your budget, with a 32-percent payout or outlay rate. For the appropriations request of \$517 million for the Advanced Technology Program and manufacturing centers, that outlay is \$93 million according to you, but CBO says oh, no, that will be \$165 million.

So you two, just like NOAA, come with an outlay or a budget headache for this committee. We all of a sudden have got to find \$72 million just to do what you want. So there has got to be better coordination in outlay estimates. I do not know how we are going to find that \$72 million to really go forward, even on this little bit of a program, compared to what we have—do you have an answer or a suggestion? Have you consulted with the Congressional Budget Office?

Dr. PRABHAKAR. Mr. Chairman, I am aware that we have a problem and we are still working with CBO to see if we can resolve it. We have, I believe, very clear data to support the President's outlay percentage number, and I hope that we will be able to resolve that, because I do not believe that their numbers support the actual situation.

#### LABORATORY COOPERATION

Senator HOLLINGS. To get right to the point, I do not believe necessarily in a fair share. I understand you went out to New Mexico to look at the national labs there, and the idea would be not to just bust them up and give everybody a certain amount of talent. It is sort of hard to correlate all that talent in one place, but I am a little jealous, or wondering why we cannot get more into this program.

That is not your problem, that is our problem, but what do you find in interagency coordination? You have done that in defense. Senator Domenici and I review the defense budget on Defense appropriations. Senator Domenici and I also work on the energy budget, and we work on this commerce budget. What comment can you make on the coordination, because I understand you went up there and looked at it.

Senator DOMENICI. Mr. Chairman, before she answers, might I just say—first of all, let me put on the record here while they are present and in your presence, I really want to try and help you and others make this program work. OK, so let us put that on the table. I am not trying to take money that NIST is getting and put it in the nuclear deterrent laboratories.

I went to see NIST for a short time—I took one of the best laboratory directors from the DOE system, and we did not spend enough time, I can tell this committee—or that you and I understand everything. But I think I have a feel for what you have going in terms of science capability in-house, which obviously is not your greatest strength in terms of breadth of technology and science in the country. And I also think I understand how you are directly trying to help business, and it excites me.

I would now say, Mr. Chairman, that what I want to try to do is to invite you to come to a laboratory with me in New Mexico, and let us see if we cannot get rid of whatever antagonism appears to be there of us versus them or them versus us, because I think the country needs all the science and technology applied to business and cutting-edge research for the Government that we can possibly put together.

I am thoroughly convinced, from having visited at length with both our laboratories, in our biggest laboratory, that there need not be a conflict. That, as a matter of fact, there can be some very, very synergistic working together where we get more if you pick issues where the technology is matched up.

Let me just suggest, as an example, just yesterday in the city of Albuquerque, Intel Corp.—which happens to be located there, their biggest plant they are building—they entered into a so-called research agreement, CRADA—which is the only thing the labs have; you have direct grants, they have CRADA's—wherein environmentally conscious manufacturing will be pursued, where this lab-

oratory will match up with Intel and see if they cannot find ways to make water go further instead of destroying the water they use. Better ways to make the end product of manufacturing the tremendous part of the computer system that they manufacture, and see if what comes out is clean rather than polluted.

I would think that NIST would be excited about that also, even though it is not their program, and I hope that what we come out with, what you and I can come out with in this committee is ways to work together. I never understood why the Department of Energy went into the South with reference to the big association that represents the clothing makers and all of that. I never understood why they did not work it out with you and go down there and do it together, and work it out with NIST.

But I do not think that ought to stand in the way permanently of us trying to work together. I think there is a completely different mission, but yet there are some overlaps that are very, very important where we can be very helpful to the DOE and where NIST can be extremely helpful to industry.

I think you know that some of the DOE laboratories, led, I think, by Sandia, were doing a lot of work in new and exciting manufacturing technology. They happen to have been manufacturers. Nobody knows that, but they made certain of the weapons components. So Sandia is a cutting-edge manufacturer with robots, and I think that works into what you are trying to make flow into the private sector.

So I want to say, even before I ask a question, that I would like very much to make sure that we try to work together. And I think before we are finished, you are going to hear from your Director at NIST that she knows a lot about those laboratories without having visited them. She knew from before because of DARPA, is that not right?

Senator HOLLINGS. Is that right?

Dr. PRABHAKAR. Yes.

Senator DOMENICI. And I think she is going to tell us here, if we have enough time, that she finds no incompatibility and probably some areas where we can work together and not waste money and duplicate efforts. So I am very pleased with that arrangement and I want to be part of making it work.

Senator HOLLINGS. And I want to be part of making it work. One of the differences is peer review. They came—it was not that they put me together and everything else. They came and presented the program, and under our program, which I think is well intended and well provided for, of peer review, they went up and they could not pass peer review.

And I am glad of it because it takes the political pressure off of me. Every time I go over in conference with the House, they want to write in five more manufacturing centers, at specific locations. So we put in peer review and they go out and they say, "Whoopee, no peer review out here." We have got a lot of money and we are looking for something to do. That was the difference.

Let Dr. Prabhakar tell us.

Dr. PRABHAKAR. Thank you both for your comments, because I think they are very much on target. First of all I think, Senator Domenici, your point about complementary capabilities is exactly

the starting point. I think with the programs that we have at NIST, we have some unique tools for working with the industry. Our laboratory program while it is not a large laboratory capability, is one that has been very focused on serving the measurement needs in the industry.

And meanwhile, as you pointed out, many of the DOE labs and other labs around the country, in pursuit of their own missions, have developed some tremendous technical capabilities. So because of that we have, in fact, found for many years that we have had relationships with complementary capabilities working together.

You mentioned Intel as one example. The NIST side of the semiconductor story is, I think, pretty instructive, because it fits right in. We recently embarked on a path to build up to a \$25 million level of activity in semiconductor metrology, again focused on the measurement business which is so critical for that particular technology, a key technology for our electronics industry. And I think that that is a good example of the kinds of skills that—in that case, that Sandia brings with Intel on environmentally focused manufacturing, all work that is very measurement intensive.

So I think that there are opportunities there in other areas as well, where we have started to work together on manufacturing issues, on information technology issues, in addition to the semiconductor technology area. And I think it is actually quite clear how the laboratories can work in conjunction with each other.

In our extramural programs we have also had some terrific interactions. In manufacturing extension, for example, I mentioned that we view our job as really building that connection to small manufacturers. We think that there are many many sources of good technical capability at our labs, but also the other labs around the country and companies. And not just technical sources, but also places like EPA, places like the Department of Labor and the Small Business Administration, all of those are organizations that we have built linkages with because we think they are valuable providers of the kind of expertise that the small manufacturers need.

In particular, we have been able to draw from some of the expertise in the DOE labs, and I think that has been useful for us in doing our job and useful to DOE in delivering their capabilities to a community that they had not previously been able to touch.

In addition, more recently we have been looking at how we might better build strategic alliances with some of the DOE laboratories' capabilities in ATP.

As you pointed out, Mr. Chairman, the central tenet in that program is to focus on industry's ideas and fund programs on a competitive basis. And, while I think that is the essence of the program and that will always be the core of what we do, at the same time we think that it is going to be very critical, again, to leverage the other capabilities that are going on. So as we develop programs in various areas, we are building a dialog with the other technical resources, the labs around the country, the university base, the other agencies in the Government, so that we can align our programs and, again, use our relatively tiny dollars to see if we can get the leverage from a lot of the other investments going on.

Senator HOLLINGS. We are not putting anything in NIST that we already have in these other labs, that is the bottom line as far as we are concerned.

Dr. PRABHAKAR. No; I think it is really a different kind of activity that can work together—

Senator DOMENICI. And we have to keep trying to real hard to make sure we do that. I think you are right.

Senator HOLLINGS. That is right. You were back there in DARPA with Craig Fields and Navy Secretary John Lehman. We had rapid acquisition of manufactured parts. That technology was in National Bureau of Standards. You took the technology from there and the Navy got onto it and now the Air Force is gung ho on it, that program down there.

Dr. GOOD. Mr. Chairman, I might make one comment about this little discussion. I think that this question about how to leverage our facilities and resources, and this whole industrial interface is extraordinarily important. And we really are working very hard. We have the right people now, I think, from DOE on this new Civilian Industrial Technology Committee, and Dr. Prabhakar is a member. And if that works as it is supposed to, we are to be in a position to begin to handle some of the questions that you all have. And we would like to work with you very closely on that, because we think that is the way to get it done, with everybody sitting around talking together at the same time.

Senator DOMENICI. Could you submit for the record the makeup of that group?

Dr. GOOD. Yes; we would be more than happy to do that, because this is the way, I think, to get at these issues and to make these kinds of collaborative efforts work much much better than we have done in the past.

[The information follows:]

#### THE MAKEUP OF THE CIT COMMITTEE

One of the NSTC's nine committees is the Civilian Industrial Technology (CIT) Committee chaired by Mary Good, Under Secretary of Commerce for Technology, with a co-chair from the White House Office of Science and Technology Policy and a vice-chair from the Department of Energy. Membership on the committee consists of the following individuals:

Chair: Mary L. Good, Under Secretary for Technology, DOC.

Vice-chair: Martha Krebs, Director, Office of Energy Research, DOE.

White House co-chair: Lionel S. Johns, Associate Director for Technology and Space, OSTP; Arati Prabhakar, Director, NIST, DOC; Anita Jones, Director, Defense Research and Engineering, DOD; Gary Denman, Director, ARPA, DOD; Wesley Harris, Associate Administrator for Aeronautics, NASA; Victor Reis, Assistant Secretary for Defense Programs, DOE; Mortimer Downey, Deputy Secretary of Transportation; Christopher Edley, Associate Director for Economics and Government, OMB; Robert Sussman, Deputy Administrator, EPA; Bo Cutter, Deputy Assistant to the President for Economic Policy; Joe Bordogna, Assistant Director for Engineering, NSF; Robert Portman, Deputy Assistant Secretary, DOL; and R. Dean Plowman, Acting Assistant Secretary, USDA.

Senator DOMENICI. Mr. Chairman, let me just say the kind of things that cause me to look with great favor on this kind of advisory group. You know, there is a lot of comment about a national highway, information highway, and where are computers going and what are we going to do with supercomputers and this so-called real time modeling.

I continually am amazed when I hear a Department—not you, not you, at least not at this point—a Department of Government talk about getting into the computer business and starting something up when I visit Los Alamos National Laboratory, and I understand Oak Ridge has a great deal also. But when everybody in the outside world would say that there is no laboratory of computers and application of supercomputers comparable to Los Alamos that is in the world, and I know there are people in the audience who know what I am talking about.

I do not find that that capability is permeating the agencies and departments so that they can say let us use it. So they are out there inviting businesses to use it, they are inviting local governments to use it, they are inviting transportation studies to use it. And that is the kind of thing that I believe you are already willing to do. But it does—you know, some kind of group has to decide to make sure the capacities we already have get presented, because everybody would like to build a new system, right.

#### MANUFACTURING EXTENSION CENTERS

Senator HOLLINGS. I understand you are requesting, Dr. Prabhakar, \$20 million for the existing manufacturing technology centers. But you have got also the reinvestment in manufacturing centers with Defense, and you would be getting \$63 million from the Department of Defense to operate those?

Dr. PRABHAKAR. Let us see. In fiscal year 1995, during that period of time, the TRP dollars that initiated centers earlier are still running, so it is not until the next fiscal year that we need to be prepared to carry on work that was initiated with TRP dollars.

Senator HOLLINGS. We will be, then, looking at an increase.

Dr. PRABHAKAR. In 1996.

Senator HOLLINGS. In 1996.

Dr. PRABHAKAR. That is the rollover year, in essence.

Senator HOLLINGS. Well, are we going to continue with the regular manufacturing technology centers that work so well?

Dr. PRABHAKAR. Absolutely.

Senator HOLLINGS. Could we sustain some of those.

Dr. PRABHAKAR. The way the TRP awards were structured, as they are being implemented even as we speak today, is to have TRP pay for the initial years of operation, at which point there is an evaluation. And if they are, in fact, suitable to continue under NIST funding, they roll over. So we are planning to have a fairly seamless transition.

#### CBO/OMB DISPARITY

Senator HOLLINGS. Go right along.

Senator DOMENICI. We are surely running out of time. I do not want to keep anybody an extraordinary amount of time, but let me talk about the CBO/OMB disparity. Frankly, you are aware and have indicated already that this—the resolution of this issue is very important.

Dr. PRABHAKAR. Yes.

Senator DOMENICI. But I think there is another issue that relates to these large differences in estimates. If this issue is due primarily to slower obligation of funds by NIST, then it would seem to me

that you would have some living proof of that by way of unobligated balances for the Advanced Technology Program. And if that is the case, how much of this will carry forward into the 1995 budget? I think there is quite a bit and it will—when we know more about that, we will know what the scope of the program will be if we are unable to obligate all the new money because of differences in numbers, the differences in estimates.

Dr. GOOD. Yes; let me just make a comment about that. The chief financial officer for the Department of Commerce is working really very closely with the Congressional Budget Office right now, to try to understand where the discrepancies occurred and why, and we ought to be able to have some answers to those questions relatively soon.

Senator DOMENICI. Mr. Chairman, I just note that—I think we already know that \$215.7 million is our current ATP unobligated balance, which means that that is available to apply to the same kind of programs we are asking for more money for.

Dr. PRABHAKAR. I would like to make sure that is very clear. Those dollars are unobligated today. I believe you have got the correct information. But what is in place—what we are executing today is a process of competitions that will result in awards being announced at the end of this fiscal year. So while the obligation has not yet occurred, the process is underway and the plans are in place for those dollars to be obligated.

Senator DOMENICI. I am not urging you to do it fast so as to use it at all, but I am just raising the point.

Dr. GOOD. But on the other hand we do need to do it in an appropriate manner because we have promised the industry we are going to do this in a rational way, so we do need to roll it out.

Senator DOMENICI. Now, let me just, for the record, state my view on all of this grant program and the centers for manufacturing. I want to urge—and I think I do this all the time, every time we have a hearing—that you try diligently to get all politics out of these grants and these centers, the establishment of these centers.

Dr. PRABHAKAR. Yes.

Senator DOMENICI. I mean, if we are going to make it, I think we are going to make it together up here. And I do not think Senator Hollings did this because somebody will have a preference, because they are a Democrat, in getting one of their businesses to get one of these grants. I think that seeing how everybody is poised to say this is industrial policy, I think the worst thing we need is three or four of them coming out as that kind of approach.

Senator HOLLINGS. None of them.

Senator DOMENICI. No; I agree. I said if they did.

Senator HOLLINGS. That would have been dead. It would have been dead.

Senator DOMENICI. That was the debate on the floor.

Dr. GOOD. Senator, the two of us could not agree with you more.

Senator HOLLINGS. That is right.

Dr. PRABHAKAR. We really appreciate your support because it is going to be very important to continue to get that message from both sides.

## QUALITY CURRICULUM

Senator DOMENICI. Senator Hollings has agreed to carry to conference an interesting little amendment that I have offered on the Baldrige Award. It seems to me that the missing link in awarding Baldrige-type awards is an award to universities that would gear their business school and economic school strategy to quality, so that they would have a curriculum that moves them in the direction of quality, thus competing for a Baldrige Award.

I would appreciate it if you would look at that so that when he goes to conference you might have a letter or something stating that this might be a very good approach to getting the executives out of our universities with quality curriculum. Now, it is not whether that university is a quality university, but rather when the curriculum and what they are teaching the students is moving to an education on quality in manufacturing.

Dr. PRABHAKAR. We would be pleased to look at that.

Senator DOMENICI. Would you look at that?

Dr. PRABHAKAR. Yes.

## QUALITY PROGRAM

Senator HOLLINGS. On that, a \$4.1 million increase, why?

Dr. PRABHAKAR. I am sorry, is this on the Baldrige program?

Senator HOLLINGS. \$4.1 million increase in the Baldrige Award. Yes; you have jumped up from \$2.8 million to \$6.9 million.

Dr. PRABHAKAR. This is to look at the new categories of health care and education. The Secretary has asked us to investigate whether those could be turned into new Baldrige Award categories. We have started working with both of those communities.

Senator HOLLINGS. Because it has got to be with the technology. We do not want to get it to the Secretary of Education's backyard.

Dr. PRABHAKAR. I think the issue here is to recognize that the manufacturing community has created a quality methodology that could have tremendous implications in these other areas. We have gotten, in fact, a tremendous interest from the other departments that are in those areas, so that connection I think is being built.

Senator DOMENICI. You know what you might want to do—and there may be others, but some work that Senator Bingham and I did has caused New Mexico to now be a State that is trying to be a quality State, which means we are trying to make our health delivery system subject to quality performance reviews. I do not know how long it is going to take, but it is a big program and a lot of interest has developed.

Dr. PRABHAKAR. We will make sure that our folks are looking at that.

## MANUFACTURING EXTENSION PARTNERSHIP

Senator DOMENICI. I am going to skip this question and just give it to you to be answered. Manufacturing extension partnerships, could I just ask in that regard, you want an increase from \$30 to \$61 million. This is intended to strengthen competitiveness of small- and medium-sized companies.

Dr. PRABHAKAR. That is correct.

Senator DOMENICI. Which I think is a great program. According to the budget submission, you have established links with other Federal agencies to avoid duplication.

Dr. PRABHAKAR. Absolutely.

Senator DOMENICI. And to create accessibility. This states that NIST has agreements with the Department of Energy labs at Sandia, and Y-12 at Oak Ridge. Would you supply us, for the record, the nature of the agreement with Sandia and Y-12 at Oak Ridge?

Dr. PRABHAKAR. We would be pleased to.

[The information follows:]

#### AGREEMENTS WITH SANDIA AND Y-12 AT OAK RIDGE

There are a number of agreements in place between NIST and Sandia and Y-12, and NIST is working actively to develop further linkages to DOE technology sources. The California Manufacturing Technology Center has a formal agreement with Sandia to make use of their technology in serving client firms, and they use interactive videoconferencing, as well as more traditional means, to provide this service. In addition, NIST manages two TRP cooperative agreements with Sandia. One addresses the energy and environment needs of small companies, and the other is a pilot project to define techniques for making internal technology more visible and accessible throughout the Manufacturing Extension Partnership network.

NIST has formal agreements with Y-12 to cooperate in the development and dissemination of Best Manufacturing Practices and to assist Y-12 in definition of a shared manufacturing facility/service center for small manufacturers tied into the Tennessee industrial extension system. Y-12 has provided technology assistance to manufacturers in the Southeast in cooperation with the Southeast Manufacturing Technology Center. NIST is managing a TRP cooperative agreement with Y-12 and the Great Lakes MTC for development of client tracking systems for the Manufacturing Extension Partnership network. Y-12 also has placed several professional staff members at NIST as visiting staff for the Manufacturing Extension Partnership to further develop cooperative means for utilizing available technology from DOE facilities.

At the Departmental level, a DOC-DOE agreement is under development which will significantly ease the procedural burdens imposed on small companies seeking assistance from DOE facilities in connection with NIST manufacturing extension centers.

Senator DOMENICI. And also if you have any suggestions of anything we can do to make that an easier flow in terms of the arrangement, whether it is in this subcommittee or Energy and Water.

Dr. PRABHAKAR. Thank you.

#### ADVANCED TECHNOLOGY PROGRAM

Senator DOMENICI. Individual grants for technology, this is the one that will really go up, right, \$200 million to \$451?

Dr. GOOD. That is right.

Senator DOMENICI. I think I would like to know for the record how much of that new money is required to continue to support grants made prior to fiscal year 1995.

Dr. PRABHAKAR. We will get you that.

[The information follows:]

#### FUNDING OF PRIOR YEAR ATP GRANTS

The exact amount of funding required for the out-years of grants made prior to fiscal year 1995 cannot be determined until all of the fiscal year 1994 awards are selected. However, the ATP has developed budget estimates that project that approximately \$255 million will be needed to support the out-years of grants made prior to fiscal year 1995. This amount excludes other expenses such as administra-

tive costs, Small Business Innovative Research Program set aside, and intramural research funds.

Senator DOMENICI. I think that is going to be important year after year, so that we know whether they are 3-year commitments.

Dr. PRABHAKAR. That is right.

Senator DOMENICI. And then the size of those individual grants. Can you tell us now, what are they going to be?

Dr. PRABHAKAR. Grants in the past have covered a fairly wide range. The largest is a total—I am sorry, let me get you the numbers for the record, but roughly 1 million per year is the average size, I think.

[The information follows:]

#### SIZE OF ATP GRANTS

The size of individual grants cannot be determined until the individual projects are selected. The ATP enabling legislation requires that all single company awards must be under \$2 million and not exceed three years. Joint ventures can be funded up to five years, but there is no limit on the amount of funding. Based on the past four general competitions, ATP single company awards are likely to average about \$1.5 million over two to three years. Joint venture awards are likely to average about \$7 to \$8 million over about four years. With the introduction of program competitions in fiscal year 1994, it is possible that a greater number of joint ventures will form to apply for those competitions. If a greater percentage of joint ventures receive future awards (in the past, 23 of 89 awards have gone to joint ventures), then the average size of an award will increase accordingly.

Senator DOMENICI. The average size of the grant.

Dr. PRABHAKAR. Yes.

Senator DOMENICI. Do they match 50–50?

Dr. PRABHAKAR. The matching requirement is different for single companies or joint ventures, but in each case there is some substantial cost sharing. But if you look at the whole portfolio of our activities, it is better than 50–50 cost sharing.

#### LABORATORY PROGRAM

Senator DOMENICI. I notice in your internal programs, materials science and engineering, a \$16 million, almost \$17 million increase. Computer systems, a \$38 million increase. Now, are those going to be looked at in terms of what is already being done?

Dr. PRABHAKAR. Absolutely. That is considered in all of our internal laboratory activities. For example, in the computing area we are very focused on the interoperability issues, how you create the interoperable manufacturing tools. Again, NIST lives and breathes infrastructural technology.

#### INTERNATIONAL COOPERATION

Senator DOMENICI. I am going to submit one more and then give you one further observation. I went through about 6 months of effort to try to get a program that the Congress authorized which said the scientists at all of the DOE labs—not the two in my State, but all of them should work in harmony with Soviet nuclear scientists who would thus be working together on civilian, rather than military, science and technology.

And we found that the Soviet scientists really liked to work with the laboratories that used to be their nemesis because they see some great spirit of equality and recognition. And we have inserted

in that program an item for an American business to get involved, and what we are trying to do is pick projects in the Soviet Union and Russia and Ukraine with the joint science teams, and work with business to move the technology out of the nuclear laboratories of the Soviet Union into the marketplace.

I have a hunch that that kind of program deserves to be understood by you all so that it is not just a State Department-DOE program. I am just asking if you might, in due course, seek to view that with DOE and see where you might fit. You may find that you are doing some work over there that, if you do them together—this is a \$35 million program for all DOE's 10 labs, and a lot of the money would be spent with Soviet scientists, but then there is an industrial team of American business that will pick projects that make sense for technology evolution, and I think you all might want to look at that with them.

Dr. PRABHAKAR. We would welcome a chance to look at it.

Senator DOMENICI. Would you give a report to the committee after you have done it?

Dr. PRABHAKAR. We would be pleased to.

#### ADDITIONAL COMMITTEE QUESTIONS

Senator DOMENICI. Thank you, Mr. Chairman.

Senator HOLLINGS. We will leave the record open for further questions, and we thank Secretary Good and Dr. Prabhakar, both of you here today.

[The following questions were not asked at the hearing, but were submitted to the Administration for response subsequent to the hearing:]

#### QUESTIONS SUBMITTED BY SENATOR ERNEST F. HOLLINGS

##### FEDERAL R&D—DR. GOOD'S ASSESSMENT

*Question.* Dr. Good, you've had an outstanding career in the private sector and now about seven or eight months to review federal R&D programs from inside government. As you point out in your testimony, the Technology Administration—including NIST—makes up only 1.3 percent of the federal R&D budget.

Where do you think we should be cutting back and adding to Federal R&D efforts? Are there areas in NIST that you think we should be reducing or redirecting?

*Answer.* NIST management carefully reviews its laboratory programs and will reallocate part of its STRS appropriation each year if necessary. Federal R&D efforts are currently being reviewed by the President's National Science and Technology Council (NSTC). The NSTC review is part of the process for reviewing fiscal year 1996 Federal R&D efforts and will provide input in the fiscal year 1996 budget process. This will include a review of NIST's R&D efforts, including NIST's. Particular attention is being paid to the programs developed to support the civilian industrial infrastructure and the new initiatives endorsed by the Civilian Industrial Technology Committee of the NSTC including: automotive technologies, manufacturing for volume electronics production, manufacturing infrastructure, industrial materials, environmental technologies, and construction technologies.

*Question.* Dr. Prabhakar, you worked in the Advanced Research Programs Agency for several years. How does NIST contrast and compare with that agency?

*Answer.* NIST and ARPA are agencies with different missions and different mechanisms for accomplishing their missions. NIST's mission focusses on economic growth and assistance to industry and the entire technical community. NIST provides assistance to industry through four major programs—its scientific and technical laboratories which focus on technical activities ranging from electronics to construction; the Manufacturing Extension Partnership which provides technical expertise to small- and medium-sized manufacturers; the Quality Office which manages the Baldrige Award, and the Advanced Technology Program (ATP) which funds high-risk and enabling technologies in companies on a cost-shared basis. ARPA, as

part of the Department of Defense, has a mission centered on national security which it carries out by funding research and development in companies, universities, and other labs. Its mechanisms are most similar to ATP at NIST, although there are key differences even here because ATP relies heavily on maximizing industry participation in developing and defining projects and programs.

With the strong emphasis on dual-use technologies in Defense R&D, ARPA and NIST often share interests in such areas as manufacturing, information technology, materials, and electronics. Both agencies have made a commitment to coordinating work to maximize our impacts, and the result has been a healthy and mutually beneficial relationship. In particular, NIST's participation in the DOD's Technology Reinvestment Project (TRP) has significantly accelerated our efforts to build the Manufacturing Extension Partnership and has helped to create linkages to other technology agencies. Program development in ATP has also been coordinated with ARPA and other key agencies and laboratories.

#### NTIS—NATIONAL TECHNICAL INFORMATION SERVICE

*Question.* When I opened the budget, I found that NTIS went from zero to \$18 million. Now in NOAA, I've got \$82 million proposed in user fees for fisheries which seem to be pretty difficult to make into a proprietary good. But, in NTIS I've got an appropriation request and no charges fees for things that do seem to be proprietary services.

You are requesting \$6 million to provide on-line access to Federal data for computer users, \$6 million for grants to libraries for computer systems, and \$6 million to assist other Federal agencies in complying with the American Technology Preeminence Act.

Why can't these initiatives be funded by other agencies or by the users?

Are you sure that you want to be in the library grant business? The New York Public Library is lobbying us every year—and we've told them that we do not have library programs in this bill. If you start this one, I can tell you that the libraries and their representatives will be ready with earmarks.

Why can't libraries simply apply and compete through NTIA's National Information Infrastructure Grant program?

*Answer.* (a) Thus far, the NTIS online system and the equipment NTIS uses to convert information from selected formats and media into those sought by our users have been financed with revenues NTIS has earned through the sale of its products and services. Each year the revenues available for investment by NTIS are only \$1.5 million. This one-time investment request would enable NTIS to immediately expand the capacity of its online system (FedWorld) and the capacity of its Automated Document Storage and Retrieval System (ADSTAR) for converting information it receives from Federal agencies to and from a single electronic format at a high enough volume to make it a commercially viable operation. At its current rate of investment NTIS would require from six to ten years to reach the capacity that this appropriation would make possible in just one year.

NTIS intends to invest in these systems as funds allow. It is true that to the extent we earn revenues providing services to other agencies, the other agencies are financing our modernization. However, given the current budget situation, we doubt that any other agency would be willing to directly finance our mission (information dissemination) at the expense of their own.

Once both of NTIS' systems are developed to the appropriate capacity, we expect that industry users of our products and agency users of our services will support the continuation of both systems indefinitely with no need for further appropriations to NTIS.

(b) We requested the funds to finance a one-time investment in the nationwide Depository Library system commensurate with the investment being sought for NTIS. We have no interest in being in the "grants" business over the long term. As we understand it, the Depository Library system was designed to ensure citizen access to the many and varied publications of the Federal Government. Federal agencies are now required to promptly provide NTIS with all scientific, technical and engineering information intended for the public. Accordingly, we believe that, as NTIS disseminates more and more of such information electronically, there is a need to ensure that the Depository Libraries are able to access that information electronically.

According to the Superintendent of Documents, about two-thirds of the Depository Libraries currently have some level of electronic capability but about one-third are inadequately equipped. We have invited the Superintendent of Documents and the Depository Library Council to work with NTIS in the selection process to ensure that these grant monies are most effectively used to enhance the electronic informa-

tion handling capabilities across the system. We do intend to ensure that at least one library in each state receives funding.

(c) The National Telecommunications and Information Administration (NTIA) has an Information Infrastructure Grants program designed to stimulate the development of an information infrastructure that promotes public access and serves educational, medical and other social needs. While not specifically designed to support the Depository Libraries, they could be eligible to compete for a portion of NTIA's grant funds. However, NTIA requires an "in kind" contribution of between 25 and 50 percent for such grants which many of the less well-financed libraries could not afford.

The funds requested by NTIS will be used by the libraries to invest in modernization. We do not intend to require any matching contribution or commitment of follow-on funding. Accordingly, funds would not be provided for normal program operating expenses or demonstration projects that could require future funding.

#### OFFICE OF THE UNDER SECRETARY FOR TECHNOLOGY

*Question.* Under Secretary Good, you appear to have shaken things up over there in the Technology Administration. Up until now, the Office of the Under Secretary did not take a leadership role. But your out front, and the budget for the Office of the Under Secretary doubles.

What do you think is the proper size for the Office of the Under Secretary, what we used to call "The Technology Administration?"

*Answer.* The President's request for 1995 of \$11.3 million for the Under Secretary's office and the Office of Technology Policy is appropriate for the projected activities.

Since 1990, the budget of the Technology Administration in the Department of Commerce has been divided into three pieces: NIST, NTIS (if any appropriation was requested), and the part often previously referred to as "TA", which included the Under Secretary's office and the Office of Technology Policy, headed by an Assistant Secretary. With the end of the cold war and the realization that our economic well-being has now become a major "security" issue for the future, the role of civilian R&D and the development of technology (both dual use and purely civilian) for new business and new job creation has been moved to the center of attention. In this environment, and under President Clinton's plan for economic development, the Department of Commerce, and the Technology Administration in particular (including NIST and NTIS), have become the focal point for these civilian technology activities. To perform this leadership role, the Under Secretary's office has become the coordination center for the agency cross-cut programs in civilian technology development and deployment. The Office of Technology Policy must now serve these cross-cut programs by providing timely and appropriate analytical studies and support activities to provide the background information for specific policy formulation for federal civilian technology programs. The 1995 budget outlines these new roles for "TA" in that the Under Secretary's office is recognized as the leadership office for civilian technology and the Office of Technology Policy is given a specific mission to provide the information necessary to make good policy decisions in this area.

The 1995 budget request for the Under Secretary's office and the Office of Technology Policy reflects these goals and objectives. The Under Secretary's office is (1) coordinating the Partnership for a New Generation Vehicles (with major programs in DOC, DOE, DOD, DOT and NASA); (2) chairing the Civilian Industrial Technology Committee of the NSTC, where the Administration's priorities for civilian technology will be set; (3) providing the interface in the Department of Commerce for the coordination of trade and technology issues; (4) acting as the focal point for civilian technology issues in the government's S&T agreements; (5) providing guidance and overall coordination of NIST activities (particularly ATP and MEP) with the overall government activities in civilian technology; (6) providing management oversight of NTIS as it moves from a federal R&D document provider to an on-line government information provider; and (7) encouraging the private sector to evaluate and revise as necessary its own technology agenda by providing a forum for individual companies, industry groups and industry associations.

The 1995 budget also reflects the independent and more aggressive roles expected of the Office of Technology Policy. Resources are requested to launch the industrial "benchmarking" activities of our industrial base where we can provide the Administration and the Congress an accurate picture of the state of our industries; to provide the review and secretariat function for those S&T agreements where the technology component and private sector interaction is expected to be substantial; and to evaluate the manufacturing base, especially the small and medium-size manufacturers, to guide our federal support in manufacturing infrastructure.

*Question.* The budget in the State Department is terminating Science and Technology Agreements with four Eastern Europe Nations. This is one of the President's 115 highlighted program terminations. Yet, your budget proposes \$400,000 for a new Science and Technology Agreement with Israel. Isn't this inconsistent?

*Answer.* The agreements administered by the Department of State have supported high quality basic research in a range of science and technology fields. This is a different purpose than those that the President set out in establishing, with Prime Minister Rabin, the U.S. Israel Science and Technology Commission (USISTC). The USISTC is explicitly aimed at strengthening the high technology private sector in both countries and has focused its attention on those areas—defense conversion, information processing, telecommunications, microelectronics, biotechnology, medical devices, agriculture, and environmental technology where there are likely to be substantial gains from increased collaborative activity. Israel is a world class provider of technology in these areas and the program is designed to build upon the successful collaborations stimulated by the BIRD, BARD, and BSF programs. Increased joint private sector activity may also stimulate U.S. exports of high tech goods and services through innovative marketing arrangements, particularly in the Middle East or in the former Soviet Union.

*Question.* You are requesting \$750,000 for the Partnership for a New Generation of Vehicles. What does this initiative fund?

*Answer.* The PNGV funds will be used to support the technical and administrative activities of the Operational Steering Group and the Technical Task Force within the DOC. The administrative activity includes a secretariat with full time staff which manages the day-to-day program development and technical coordination. In addition, these funds will be used for administrative and some limited technical support of the "Creative Track", the mechanism by which the PNGV will evaluate ideas and submissions from individuals and small businesses. The funds will support the peer review process, by which the technical program plan and implementation process will be reviewed each year. Finally, a limited number of technical and business related studies will be supported.

*Question.* You are requesting \$1.1 million for sending manufacturing engineers to Japan. What part of the program do we finance through your office? Are the Japanese giving these people meaningful assignments?

*Answer.* TA finances the training portion of the program including approximately three months of intensive instruction in Japanese language, culture, and business practices. TA also finances an additional week of lectures and seminars on technology transfer issues by government and industry officials in Washington D.C. We are aiming to recruit 100 engineers for 1995-96 in accordance with our agreement with MITI.

In addition to the training, we serve as Secretariat and provide for publicity, recruitment, and administering the program. We have a Memorandum of Understanding with the Society of Manufacturing Engineers (SME) to administer the training and portions of the publicity campaign.

The Japanese government (MITI) has budgeted about \$4 million to implement this program through the Japanese External Trade Organization (JETRO). JETRO gives partial subsidies to cover approximately 50 percent of the costs incurred by the Japanese manufacturing companies who host an American engineer for up to one year. In addition to providing the work assignment, the Japanese company provides housing during the fellowship period. Furthermore, JETRO funds a four week orientation in Japan which provides additional language training and cultural immersion for the engineers after they arrive in Japan but before they begin their host company assignments.

The engineer must have the signed approval of his or her U.S. sponsoring company to participate in the program, and his or her company must agree to pay the salary and expenses (including travel and insurance) of the engineer during the fellowship period.

The feedback which our staff received during a recent visit to Japan and through e-mail contacts indicated that the engineers are all quite positive about their activities and work assignments. JETRO and the Japanese companies are taking the intent of the program quite seriously and have devoted considerable time, energy, and resources to making this a meaningful experience for the engineers. Upon the return of the first group of engineers, we plan to use them to educate others, both within their companies and at industry forums.

#### MANUFACTURING EXTENSION PROGRAM

*Question.* NIST's Manufacturing Extension Program is getting pretty confusing. Your budget includes \$32 million to support NIST manufacturing centers and it as-

sumes that you will get \$63 million from the Dept. of Defense—your alma mater—to fund “TRP” technology reinvestment manufacturing centers.

Please explain the differences and similarities in these centers. Whatever happened to good old “Hollings Centers.” I understand that you are requesting \$20 million for the seven existing NIST “Manufacturing Technology Centers”—but no additional large centers. Is that correct? If so, why?

Answer. The TRP manufacturing centers from the fiscal year 1993 competition are funded for their initial period of operation (2 to 3 years) from DOD funds. The selection criteria for the manufacturing centers in the TRP competition are completely consistent with the criteria used for MTC's and the selection process is as rigorous and thorough as the MTC process. Once the manufacturing centers are selected under TRP, the responsibility for negotiating the cooperative agreements and the complete management responsibility is turned over to NIST. The manufacturing centers selected under TRP are completely integrated into the Manufacturing Extension Partnership and are managed as if they had been selected by NIST and funded through NIST.

The TRP manufacturing centers differ from MTC's only in the range of sizes of the centers. Of the 28 TRP funded manufacturing centers, 9 are large, comparable in size to an MTC, and 19 are smaller, comparable to the Manufacturing Outreach Centers defined in S.4. It would be appropriate to call all of these centers “Hollings Centers” since the definition of the “TRP-funded manufacturing centers was based entirely on the structure of the seven MTC's and our experience with them. There is no funding requested in fiscal year 1995 for a competition for the larger MTC's. TRP funding is available to initiate at least 14 new centers (5 large plus 9 smaller) which will start up in fiscal year 1995, and there is a likelihood of an additional TRP competition of similar size. A growth rate faster than this would exceed the capacity of proposers to form the necessary partnerships and develop strong proposals, as well as the capacity of the NIST program to work with and help the development of a larger number of new MTC's.

Question. Will all these DOD centers be picked up in NIST's budget after fiscal year 1996?

Answer. Each of the centers initially funded from TRP will be evaluated by a panel to determine the level of performance and the continuing need of companies for the services which they provide. If a center passes both of these tests, and if proper statutory authorization is in place, and the appropriation level permits, then the funding responsibility for the center will be reflected in the NIST budget. For some of the centers, this transition will occur in fiscal year 1996, and for others it will occur in fiscal year 1997.

Question. Are your old colleagues over at the Advanced Projects Agency “ARPA” assuming that there will be more defense conversion “TRP” funding coming to them this year?

Answer. The Office of Management and Budget has informed NIST that TRP funding is requested for fiscal years 1995, 1996 and 1997, however NIST plans at present do not depend on additional TRP funding in fiscal year 1995.

Question. Do you have authority to maintain quality control and oversight over the centers which were funded by DOD?

Answer. NIST is managing the manufacturing centers funded by TRP just as if they were funded from the NIST budget. NIST has full authority to maintain quality control and oversight. NIST uses the same performance reporting and standards for all of the centers it manages, and it takes as active a hand in oversight.

Question. Why doesn't the Tailored Clothing Technology Corp. which is funded under ITA and which assists textile and apparel firms, qualify as a MTC or Outreach Center?

Answer. Tailored Clothing Technology Corp. (TCTC) is qualified to compete for MTC and for TRP funding as a manufacturing center. It has not been selected to date by the selection panels, based on the selection criteria. NIST has worked with TCTC and has provided feedback from MTC competitions in order to assist in the development of a strong proposal. NIST would be happy to work further with TCTC, to review white papers, or to discuss their approach.

#### LINKS

Question. Your budget proposes \$17 million for a new computer system to link up existing manufacturing centers—that's more than NIST is proposing to put toward funding new centers.

Why such an expensive program? Can't the centers just agree on an “off the shelf” computer system?

Answer. NIST does not propose to purchase or install a computer system or network hardware to link the manufacturing centers. We plan to use commercially installed networks and the Internet for communications. Wherever possible, we plan to use "off the shelf" software and interfaces, and where development of access software or interfaces is necessary, NIST plans to drive toward standardization and to cost-share the development with others. Likewise, NIST plans the absolute minimal development of new databases, working instead to fully utilize existing public or commercial information sources. NIST is working with the DOE and DOD laboratories and centers of excellence to make their technology resources available through the network. The \$17 million requested for "LINKS" covers all of the infrastructure components, not just electronic networking, as indicated by the following break-out:

\$5 million—Develop and maintain data access function. This supports steps to make technology accessible from existing sources to the centers.

\$3 million—Assistance to centers in establishing and pilot testing access to network systems. This supports training and minimal levels of software interface development, as well as consulting support for centers to establish their access over networks.

\$2 million—Training for extension center field agents in the full range of services they must provide.

\$2 million—Systematic performance evaluation.

\$2 million—Remote delivery of technical services, and interactive satellite delivery of workshops and conferences, etc.

\$3 million—Continuation of TRP-funded projects which provide for electronic commerce pilot projects, supplier chain services, etc.

For the fully developed system, NIST foresees that the LINKS component will represent 10 to 15 percent of the budget. In fiscal year 1995, it would represent 12.3 percent of the total spending of \$138 million (including TRP-based funding), and would support an estimated 65 centers.

#### CONSTRUCTION PROGRAMS

Question. Your budget requests \$100 million, an increase of \$32.9 million for construction of research facilities.

To date NIST has received \$167 million for construction of facilities. How much of these appropriations have been obligated?

Answer. To date, \$7.6 million has been obligated. An additional \$50.2 million is expected to be obligated in fiscal year 1994 for certain A&E and construction management tasks, construction of the Boulder central plant, expansion of the Gaithersburg plant, and temperature and vibration testing. The remaining funds are committed in fiscal year 1995 towards the construction of the new Advanced Technology Laboratories (ATL's).

Question. Which facilities at which laboratory locations—Gaithersburg and Boulder—do you intend to build first?

Answer. NIST's plan is to begin construction of the ATL's in both Gaithersburg and Boulder in fiscal year 1995 with occupancy at both sites scheduled for fiscal year 1997.

#### DECLINING REIMBURSABLE RESEARCH

Question. Is reimbursable work done for other agencies declining? Exclusive of TRP, the reimbursable budget appears to increase in fiscal year 1995 over 1993.

Answer. Exclusive of TRP, NIST's reimbursable budget decreases from \$104.4 million in fiscal year 1993 to \$87.3 million in fiscal year 1995.

Question. How many FTE are being moved from reimbursable to direct in fiscal year 1993, fiscal year 1994, and fiscal year 1995? What are NIST's long-term forecasts?

Answer. The NIST budget reflects a total transfer of 223 FTE's from reimbursable to direct funding during fiscal years 1993 through 1995. It is anticipated that within two or three years, reimbursable work will represent about 25 percent of NIST's total resources.

#### ADVANCED TECHNOLOGY PROGRAM

Question. Your budget proposes to increase ATP from \$199.5 million to \$450.6 million. That's over a doubling of the program.

Is the ATP request "executable" within fiscal year 1995? Can you get solicitations out and select award winners during the fiscal year? When would the competition(s) be run?

Answer. The ATP request is executable within fiscal year 1995. In planning for the fiscal year 1994 ATP program competitions, ATP has been planning for addi-

tional fiscal year 1995 competitions in parallel. Since the new process was announced in October 1993, ATP has received nearly 600 ideas (primarily from industry) for focused programs through which the bulk of ATP funds will be invested. There are sufficient funds available in fiscal year 1994 to hold one general competition (underway) and about 5 program competitions (to be announced in April). If the President's fiscal year 1995 ATP budget request of \$451 million is approved, there will be sufficient funding available for one additional general competition and 5 to 6 additional program focused competitions. We will be announcing competitions early in the fiscal year, and program competitions take less time to process than general competitions. Accordingly, these awards can be announced in a timely fashion.

#### INTERNATIONAL STANDARDS PROGRAM

*Question.* For the first time the international trade standards program is being proposed for an increase—from \$1.3 million a year to \$6 million a year.

Could you please describe this initiative and any changes in the program that you are proposing? Which countries are you targeting with this initiative?

*Answer.* NIST is proposing to expand the nature and range of standards-related activities in support of trade. Standards experts will be stationed on a full-time or part-time basis in areas with great potential for trade, with additional technical inputs related to measurement technology, standards, and conformity assessment procedures from NIST experts visiting foreign countries. In addition, training in U.S. practices will be provided abroad and to foreign technologists coming to both NIST and private sector standards organizations for training and education, related to standards and legal metrology. NIST will increase its training of Foreign Commercial Service Officers and Science Counselors and will assist them in transferring standards information to their host countries and assisting U.S. industries in those countries. In the field of information, NIST will collaborate with the private sector in establishing a tailored, computerized database for international standards projects and legal metrology activities. This system will include bulletin boards and mechanisms for exchanging drafts of standards proposals and linkages with other databases throughout the world.

Initial consideration for targeted countries will be given to assigning experts to Russia, Mexico, India, and selected "Big Emerging Market" (BEM) countries or other major trading areas (including Eastern Europe and South America).

*Question.* Are any changes being proposed in the Persian Gulf effort based in Saudi Arabia?

*Answer.* The nature of technical assistance to Saudi Arabia and the other Gulf countries will be continued in its current form. However, as a result of continuing shrinkage of private sector contributions, financial support is now provided by NIST, with in-kind support furnished by the private sector.

#### QUESTIONS SUBMITTED BY SENATOR J. ROBERT KERREY

*Question.* Dr. Good, when I was first elected to the Senate, you were head of the National Science Board and, as such, reviewing NSF's budget. You have been in private industry and you are now in charge of "civilian industrial technology." You are, I am sure, aware of the current debate over basic versus strategic research at NSF. How do you see the various components of research policy fitting together? What is the role for NSF and does that flow into Commerce? What are the relationships?

*Answer.* The question of the overall federal science and technology policy and the role of the various Federal agencies is most timely. As you know, the FCCSET coordinating group was revitalized under Dr. Bromley, President Bush's Science Advisor. This group did a good job of looking at R&D activities in the agencies and trying to categorize the effort by performer and mission. However, it had no "teeth" in that it could not coordinate or focus activities across agencies to leverage the overall expenditure. The new Cabinet-level NSTC (National Science and Technology Council) has been given the responsibility to do that job. Working through its Committee structure, it has the responsibility of organizing the overall R&D effort to provide a coherent, value-added science and technology effort that focuses on the balance or effort between fundamental and applied research, provides clear-cut guidance on priorities between the long-established mission-oriented programs in defense, health, energy, and space and the need to provide specific support and stimulus to the health of the civilian industrial infrastructure. I chair the Civilian Industrial Technology (CIT) Committee and I believe that the new approach will have some effect on the 1995 budget but will be in a position to significantly improve the strategic positioning of the 1996 budget.

Within this overall strategic planning, the role of fundamental or foundation research and the place of the research-intensive universities is critical. We have built a science capability that is unequalled in the world. In our quest to make our R&D efforts more relevant and more timely, we must not jeopardize the health of this science infrastructure. Clearly, the universities must change and NSF and NIH must work to focus and leverage their resources on broad areas of science with potential to deliver the foundation knowledge needed for our enterprises to quickly develop and diffuse new emerging technologies in products and services. Strategic science programs, however, do not mean applied research or technology development. We must keep our knowledge base expanding and we must continue to produce the high level and talented technical work force emanating from our graduate schools. NSF's mission should be to protect and nurture that knowledge and talent production. The Department of Commerce (and the other mission agencies) should accept the responsibility of maximizing the timely utility of that knowledge base and creating a climate where new technology-based industries demand the continual flow of new talent. Thus, the relationship between NSF and Commerce should be one of complementation. NSF could learn of appropriate strategic research areas where fundamental knowledge can ignite new business opportunities or solve serious societal problems over time and Commerce needs to provide technology development and diffusion efforts which exploit that knowledge base. The issue then is balance. We must have both efforts if the country is to retain its technological leadership role and develop the new technology-based, competitive business structure required for the 21st Century. The countries who master this dual approach will capture the high-wage, knowledge-based industries of the future.

*Question.* The Administration has established the National Science and Technology Council to coordinate research in certain priority areas. How does the Technology Administration fit into that Council and the committees which have been formed under it?

*Answer.* The Technology Administration is extensively involved supporting the National Science and Technology Council (NSTC) with the personal efforts of the Under Secretary for Technology. The Under Secretary chairs the committee on Civilian Industrial Technology (CIT) with a co-chair from the White House Office of Science and Technology Policy and a vice-chair from the Department of Energy.

The CIT is responsible for coordinating several interagency initiatives on technology and manufacturing. Recognizing that the private sector is the principal customer for future Federal CIT investments and that industrial competitiveness is essentially U.S. industry's responsibility, the committee will together with industry: (1) establish mechanisms for private sector involvement in setting the priorities and advising on Federal programs; (2) identify technology needs of industries particularly important to U.S. economy; (3) set national priorities for development and deployment of technologies to enhance industrial competitiveness; (4) monitor foreign technology advances to use as a benchmark for U.S. industry; and (5) coordinate interagency activities. While the private sector provides customer experience, the public sector provides strategic investments, physical and policy infrastructure, risk reduction and convening leadership to bring together efforts that individual companies could not accomplish on their own.

Additionally, the Under Secretary is the Department's co-member of the Committee on National Security; the Deputy Under Secretary for Technology is a member of the Committee on Education and Training R&D; the Assistant Secretary for Technology Policy is a member of the Committee on International Science Engineering and Technology; and the NIST Director is a member of the Committee on Information and Communication R&D and the CIT Committee.

*Question.* The NIST orientation is toward manufacturing, as it was intended to be. In some states, especially some of the more rural ones, much of the research is conducted in the university community. In fact, the last report on National Patterns of R&D Resources (NSF) indicated that more research was done in universities in Nebraska than in industry. What implications does this have for such a state's participation in NIST programs, especially ATP? Are we simply limited in such a case or should we be trying to join state government and university efforts with manufacturing ones? What do we do if we want to participate? How do we accomplish that?

*Answer.* A little over half of the projects that ATP has funded in the past have focused on manufacturing or process technology—slightly under half have focused more on technologies that underlie a broad spectrum of products or services. Universities are subcontractors or joint venture partners in over 20 percent of the current ATP projects. Most of the universities that are participating in ATP projects are partnered with companies from another State. Most companies are also partnered with companies from other States. Universities in Nebraska have the same oppor-

tunity as those in other States to partner with companies throughout the country to submit proposals to the ATP.

*Question.* In the Manufacturing Extension Program efforts how will you balance the need to help small manufacturers determine better processes, decide on new equipment etc. or develop value-added products against a desire to develop and/or attract high tech industries?

*Answer.* The work of the manufacturing extension centers is driven by the needs and interests of the small and medium sized manufacturers which are their customers. While the centers provide assistance and support for strategic planning (frequently in coordination with Small Business Development Centers), the companies themselves define their directions. The services are then determined by the companies' strategic directions.

The Manufacturing Extension Partnership (MEP) is working actively with other agencies in the Technology Reinvestment Project on approaches to stimulating and developing new high tech industries. This activity will become more evident with a competition for Regional Technology Alliances which will be announced in about two months.

*Question.* NIST currently has a solicitation out for manufacturing extension. Applications are due April 18. Last Friday, a TRP announcement with a manufacturing extension component (as well as a deployment one) came out. How do you expect the NIST efforts and the TRP efforts to relate? How much is NIST putting into the various MEP programs in fiscal year 1994 and how much is coming through TRP? What do you expect the fiscal year 1995 amounts to be?

*Answer.* The NIST solicitation is for State Technology Extension Program (STEP) funding of state-level planning and pilot implementation. The TRP program announcement is for manufacturing extension centers. These two competitions are complementary, not overlapping. NIST will manage all of the winners under the TRP competition as part of the Manufacturing Extension Partnership, and this plan is clearly stated in the supplementary material which will be made available to potential proposers.

The fiscal year 1994 NIST appropriation for MEP is \$30 million. Of this, \$20 million supports Manufacturing Technology Centers, \$3 million has been made available for the STEP competition, \$3 million for LINKS and \$4 million for management.

For fiscal year 1994, NIST is managing \$125 million of TRP projects (awarded as multi-year cooperative agreements); \$55 million of this will be spent in fiscal year 1994, \$54 million in fiscal year 1995, and \$16 million in fiscal year 1996.

For fiscal year 1995 the President's budget for MEP calls for \$61 million. Of this, \$19 million supports the Manufacturing Technology Centers, \$12 million supports Manufacturing Outreach Centers, \$17 supports LINKS, \$6 million for STEP, and \$6 million for management.

For fiscal year 1995, NIST will manage \$23 million of manufacturing extension centers awarded under the competition to which you refer. We expect that NIST will manage some or all of the Regional Technology Alliances winners. The NIST plans for fiscal year 1995 do not depend upon additional TRP funding for manufacturing extension centers.

*Question.* Since the state MEP applications require a Governor's letter, the intent is obviously to have these state-based. What types of arrangements are you looking for at the state level. Are you seeking coordination with economic development or science and technology efforts? What type of regional arrangements are you looking for?

*Answer.* NIST requires a Governor's letter for the STEP planning grants in order to assure that the proposer has some legitimacy to conduct planning on behalf of the state. It is frequently the case that the proposer is not a state government agency, or the proposal team includes participants beyond just a state government agency. For other STEP planning and pilot implementation grants, the focus is on a regional rather than a state basis.

Manufacturing extension centers play an economic development role; many of the MEP funded extension (and planning) activities are coordinated within a state by, or are funded through, the state's department of commerce or economic development. The core activities of the manufacturing extension centers are technological; in some states the coordinating and funding agency at the state level is the science and technology agency. Which of these is more appropriate in a particular state depends on allocations of responsibility which rest at the state level; it's a state decision. Both approaches have worked.

It is one of the strengths of the MEP program that it really does look to state, local, and regional experience, resources, and decision-making to tailor approaches which are appropriate in each circumstance. MEP looks at performance factors, the

strength of management, the commitment to serving the small and medium sized manufacturers, and related selection criteria in reviewing proposals.

*Question.* What is NIST's role in the TRP deployment proposals? How are these related to the ATP efforts?

*Answer.* The TRP manufacturing centers from the fiscal year 1993 competition are funded for their initial period of operation (2-3 years) from DOD funds. The selection criteria for the manufacturing centers in the TRP competition are completely consistent with the criteria used for MTC's and the selection process is as rigorous and thorough as the MTC process. Once the manufacturing centers are selected under TRP, the responsibility for negotiating the cooperative agreements and the complete management responsibility is turned over to NIST. The manufacturing centers selected under TRP are completely integrated into the Manufacturing Extension Partnership and are managed as if they had been selected by NIST and funded through NIST. NIST participated in the formulation of the TRP selection criteria and NIST personnel screened and critically reviewed proposals to TRP for deployment funds.

The Advanced Technology Program provides cost-shared awards on a competitive basis to industry to develop high-risk technologies that can enable significant commercial advances. While proposals are required to address business issues involved in the development and eventual marketing of the technology, the program does not address the deployment of the final product. Proposals received by the ATP are generated by industry to meet industry needs and military or dual-use applications are not required.

*Question.* NIST has, I believe, held a seminar on health care applications for the information infrastructure. What other areas do you intend to cover and what are your objectives with these applications efforts? How will your efforts differ from NTIA's?

*Answer.* NIST has held over a dozen program planning workshops in areas such as Healthcare Informatics, Biotechnology, Automated Manufacturing, Advanced Materials, Software, and Digital Data Storage to discuss ATP program ideas in these areas that have been submitted primarily by industry. Additional workshops are planned. NIST expects to announce about 5 ATP programs based on the ideas submitted by industry later this month. Additional programs will be announced later this year. With regard to the workshop on Healthcare Informatics, the potential program that was discussed focused on solving high risk problems associated with the healthcare information infrastructure as a whole (e.g., domain analysis tools and models, business process modeling, etc.), user interface technologies (e.g., digital libraries, advanced data retrieval tools) and laying the foundation for specific healthcare applications (e.g., clinical decision support systems). The NTIA program provides small grants to non-profit organizations in the health care and education area aimed at linking those organizations to the EXISTING information infrastructure. NTIA is more concerned with the utilization of existing technologies. ATP is evaluating the future information system needs indicated by the healthcare industry and identifying many interrelated problems that would have to be addressed by industry to provide a "system solution."

*Question.* The National Technical Information Service (NTIS) is responsible for providing technical, scientific, engineering and other business-related information from the Federal government to the business and industrial research community. You are proposing to undertake a one-time initiative to facilitate public access to NTIS data through the depository libraries. Who do you expect your customers/users to be under this initiative and what will be your means/platform for disseminating information?

*Answer.* U. S. business and industry represent two-thirds of the NTIS customer base. Under the initiative for the Depository Libraries, NTIS would provide selected libraries with onetime investment funds. The funds would be used to purchase the latest computer and telecommunications hardware, software and associated training to enable those libraries to take advantage of increasing amounts of Federal information becoming available electronically. We expect the mix of users to remain essentially the same. We expect the percentage of users acquiring information from NTIS by electronic means to change.

The NTIS platform for electronically disseminating information will be FedWorld, an online information service established by NTIS to provide the general public with user-friendly, one-stop shopping access to government information. FedWorld provides both dial-up modem and Internet access. In this way, we can serve the information needs of those using the developing "information highway," without leaving behind the majority of Americans who are not yet tied into a major network.

Since FedWorld was established a little over a year ago, we have received over 400,000 calls from over 70,000 users, who have downloaded over 300,000 files from

our system. We currently serve many in the policy community as one of the primary points of dissemination for White House information. For example, over a gigabyte-worth of copies of the President's Report to America and the Health Security Plan were downloaded from FedWorld within 48 hours of the President's address to Congress.

FedWorld also allows users to "gateway" through the system to over 130 other publicly available government information systems, effectively providing "one-stop shopping" for many types of government information. As a result of the FedWorld gateway, many of these systems are accessible from the Internet for the first time. FedWorld is currently handling about 3,000 calls each day, but is in the process of a hardware upgrade that will allow a peak of 6,000 to 10,000 calls a day.

We do not assess any charges to the public to use the basic FedWorld services; we only set a three-hour per day limit. Instead, we are recovering our system development and maintenance costs through the sale of products online and through subscriptions to some specific databases and files in the system. We also provide information dissemination services on behalf of other agencies, for which we charge the agencies based on our costs.

**Question.** NIST will be expanding its manufacturing technology and outreach centers. The Department of Commerce also has EDA Centers and there are Small Business Development Centers, Minority business Development Centers, all of which may be engaged in related activities. What kinds of coordination do you see among these entities?

**Answer.** NIST is committed to bringing a level of coordination to all of the centers which have closely related missions in order to present a coherent Federal face to the small and medium sized manufacturers. For example, NIST has established links with SBA which provide for a Small Business Development Center manufacturing field office co-located at each of the seven Manufacturing Technology Centers. Small Business Development Centers and other service providers are being encouraged to participate in proposal teams which are competing for manufacturing technology and outreach centers.

Not only among the extension type activities, but also among technology sources such as DOE, DOD, EPA, and NASA and sources of essential related services such as SBA, DOL, and other parts of DOC, NIST is committed to stimulating the linkages necessary to provide effective, coherent service to the small and medium sized manufacturers.

The MBDA's Enterprise Development Program and its Minority Business Development Centers, MBDC's, currently work collaboratively, both nationally and locally, with other Federal agencies on many projects to promote and enhance minority business development. We work to assure that our efforts avoid duplication and overlap and engage in projects with agencies having separate, discrete yet complementary scopes of activity.

The MEGA Center of Los Angeles has a Technology Assistance component which is designed to increase MBE competitiveness through cooperation with NIST programs. The MEGA Center provides problem solving and business planning assistance to clients utilizing federal, state and local resources, e.g. NIST's Advanced Technology Program (ATP) and Manufacturing Technology Centers (MTC). The MEGA Center will also assist MBE's in the preparation of applications to the NIST programs.

**Question.** Commerce participates in the Small Business Innovation Research (SBIR) program. How is SBIR operated within the Technology Administration and NIST? Is the set aside taken from your accounts and do you administer the program?

**Answer.** The Small Business Research and Development Enhancement Act of 1992 (Public Law 102-564) requires each Federal agency having an extramural budget for R&D in excess of \$100 million to contribute 1.5 percent of their fiscal year 1994 R&D extramural budget to the SBIR Program. NIST actively participates in the SBIR program and administers the selection of SBIR topics and awards to small business concerns that meet NIST research and development needs. Proposals are evaluated by NIST technical reviewers who rate and rank the proposals on scientific and technical merit including commercial potential of the technology. This fiscal year, NIST anticipates making approximately 30 firm-fixed-price contract awards of no more than \$50,000 each and approximately 6 contract awards at no more than \$200,000 each.

**Question.** Nebraska has received a few SBIR awards but certainly not as many as I would like. Are there ways that you can help states with a smaller manufacturing and industrial base participate in your portion of the SBIR program?

**Answer.** The key to broadening the base of any state's participation in the SBIR Program is assuring that small businesses within the state are fully aware of the

program itself, and specifically the significant benefits of participating in the program. Annually, NIST generates a Program Solicitation document that identifies specific subtopics in which proposals are sought. By the nature of NIST's mission, the subtopics tend to be more specific in the various fields of technology, as opposed to a more generic or general subtopic. For that reason, NIST's current practice is to encourage small business entrepreneurs to contact our SBIR Program Manager directly (301-975-4517) relative to participating in the NIST program. Such contact assures that the small business is given the opportunity to communicate directly with NIST technical staff to explore and develop subtopics relevant to both the Government's needs and the small business's capability.

#### QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

##### NIST—USE OF GRANT FUNDS FOR IN-HOUSE RESEARCH

*Question.* The authorization for the Advanced Technology Program allows NIST to retain up to 10 percent of the funds appropriated for the program for "IN-HOUSE" research.

How are these funds used?

*Answer.* ATP does not allow the NIST laboratories to receive ATP funding directly from companies that receive awards to perform research related to ATP projects. ATP intramural funds are used to support work within NIST that is critically needed by ATP awardees. The ATP program selects intramural projects for funding on the basis of the needs of extramural projects and the unique contributions (in terms of expertise, technical facilities, relation to fundamental measures and standards, etc.) that a NIST laboratory can bring to the project. The intramural projects are selected for funding after the related extramural awards are selected and the technical needs of those individual projects are determined. In some cases projects have been funded because they support a cluster of awards in a broad technology area rather than one individual project.

NIST does not place similar restrictions on funding to other federal laboratories. Other federal laboratories can receive ATP funds directly through companies as subcontractors or as partners in company-led joint ventures. They can (and do) develop cooperative arrangements with companies that apply for ATP funds before awards are selected and can be directly funded by the ATP as a partner or subcontractor in a joint venture as a subcontractor to a company-led project. Unlike the NIST laboratories, there is no restriction on the amount of funding that can flow through company-led projects to other federal laboratories—the technical and business merit of the submitted proposals determines the amount. For example, Sandia National Laboratory is a partner in the Printed Wiring Board Joint Venture sponsored by the National Center for Manufacturing Sciences, and has received substantial funding through that mechanism. Other examples of federal labs receiving funding through ATP awardees include Oak Ridge National Laboratory and Lawrence Berkeley Laboratory.

*Question.* How much has NIST retained of these external grant funds for internal use in fiscal years 1993 and 1994? How much does it intend to retain in fiscal year 1995?

*Answer.* In fiscal year 1993, NIST retained approximately \$6.8 million of the external grant funds for internal use or approximately 10 percent of the available funding. The percentage of funding retained for intramural use is expected to decrease significantly as the program expands. ATP expects to use about \$12 million (6 percent) to support intramural NIST research in fiscal year 1994 and \$16 million (3.6 percent) in fiscal year 1995 (assuming that the President's fiscal year 1995 ATP budget request is approved).

*Question.* Are these funds available only for use by NIST laboratories, or can they be used by other federal labs, such as The Department of Energy or Department of Defense Laboratories?

*Answer.* Because other federal laboratories can receive (and are receiving) ATP funding directly from the ATP extramural projects, ATP has not used intramural funding to support work at other federal laboratories.

##### NIST—CONSTRUCTION

*Question.* During fiscal years 1993 and 1994, Congress has provided a total of \$167 million in construction funds to NIST. The 1995 request is for \$90 million.

What are the unobligated balances for NIST construction? (Note: \$99 million carried forward into fiscal year 1995.)

*Answer.* Currently, \$155.8 million is unobligated.

*Question.* How does NIST intend to use these unobligated balances in 1994?

*Answer.* An additional \$50.2 million will be obligated in fiscal year 1994 for certain A&E and construction management tasks, construction of the Boulder Central Plant, expansion of the Gaithersburg Plant, and temperature and vibration testing. The remaining funds are committed in fiscal year 1995 towards the construction of the new Advanced Technology Laboratories (ATL's).

*Question.* How would the 1995 funding request be used, and when would funds be obligated?

*Answer.* The fiscal year 1995 funds are needed for the construction of the new ATL's in Gaithersburg and Boulder. Funds will obligate in the early part of fiscal year 1995, with construction beginning around mid-year.

*Question.* Given the large unobligated balances, why should congress provide additional construction funds for NIST for fiscal year 1995?

*Answer.* The level of unobligated balances in fiscal year 1993 and 1994 are not unusual for a complex construction program of this type. Construction contracts cannot be advertised until the Design and Engineering specifications are ready, and that effort has been underway since funds were first approved in fiscal year 1993. The construction phases of the program are moving into place now and the unobligated balances and the funds requested for fiscal year 1995 will be applied to the construction contracts during the fiscal year 1994, 1995 timeframe. The attached graphs show NIST's Capital Improvement Plan.

It is most important that Congress provide these additional funds in fiscal year 1995 because they are needed to fully fund the construction of the two new ATL's. If these funds are not available, a contract cannot be let and construction would be delayed until funds are provided.

#### NIST—INTERNATIONAL TRADE AND STANDARDIZATION

*Question.* The 1995 budget includes a new initiative of \$4.7 million for international trade, standardization, and measurement services. My understanding is that the initiative would attempt to influence foreign governments to adopt U.S. technology into the measurement systems of our trading partners.

*Answer.* What success has the United States had in the pilot standardization program that we've been supporting in Saudi Arabia and the Gulf States?

*Answer.* Since the inception of the program with the assignment of a U.S. standards expert to work with the Saudi Arabia Standards Organization (SASO), we have received approximately 575 proposed new and revised SASO standards, in 40 different product categories for comment. These have been distributed to and reviewed by 150 public and private sector organizations, with comments already submitted on 350 documents. Virtually all comments have been considered and accepted by SASO.

The economic benefits of this program have been highly significant and one factor in contributing to a 22.5 percent increase in exports to Saudi Arabia in 1992, with the United States remaining the largest supplier of products to that country. The total sales of U.S. products to Saudi Arabia (the 16th largest market in the world) increased 80 percent in the two-year period from 1990-1992. In that same period, U.S. sales to the Gulf countries (the 10th largest world market) rose 72 percent. NIST has also facilitated trade by expediting conformity assessment certificates for U.S. products in Saudi Arabia.

*Question.* What countries would be targeted in this initiative?

*Answer.* Initial consideration will be given to assigning full (or in some cases, part-time) experts to Russia, Mexico, India, and other selected "Big Emerging Market" (BEM) countries or other major trading areas (including Eastern Europe and South America).

*Question.* What would be the benefits to the U.S. if our trading partners used our industrial standards as the basis for their own?

*Answer.* The use of the same or harmonized standards and conformity assessment mechanisms is expected to facilitate the acceptance of test results obtained in the United States and, thereby, the entry of U.S. products into foreign markets. Without such uniformity, U.S. manufacturers and exporters are subject to expensive and time-consuming duplication of production facilities and product testing both in the United States and abroad.

#### NIST—INTERNAL PROGRAMS

*Question.* NIST internal programs would increase from \$226 million in 1994 to \$316 million in 1995. An enhancement of \$90 million or 34 percent. Major program increases would be provided for manufacturing engineering (\$17.8 million); materials science and engineering (\$16.8 million); and computer systems (\$38.1 million).

What would be the focus of the increase in manufacturing engineering? How would these funds build on the current program, and how would NIST cooperate with other federal agencies involved in manufacturing engineering?

**Answer.** The increased funding will support an initiative in advanced manufacturing and will seek to assist U.S. industry through developing necessary technology, standards, and procedures to improve competitiveness. Focusing on research in intelligent manufacturing cells, integrated tools, and manufacturing technology infrastructure, the initiative will provide needed support for research in next generation, highly flexible, sensor-driven manufacturing systems, precision machining, advanced material components fabrication, mechanical assembly nanofabrication, and integrated, computer based engineering tools.

The initiative will provide a needed research base beyond the currently supported infrastructure programs in measurement methods, calibration services, interface standards, and intelligent machines. An increase of \$4 million in fiscal year 1994 has provided us with the means to begin the structure of a comprehensive plan for this initiative.

NIST has a tradition of working with other Federal agencies in carrying out manufacturing research. Long-standing relationships have been established with the Departments of Defense and Energy in particular. Both departments are co-sponsors and active participants in NIST's April, 1994 Manufacturing Technology Needs and Issues Conference. Through activities such as this conference, NIST will be able to best respond to industrial needs and effectively integrate its programs with those of other agencies.

**Question.** What would be the focus of the increase in materials science and engineering? How would these funds build on the current program, and how would NIST cooperate with other federal agencies involved in materials science and engineering?

**Answer.** While the United States currently continues to lead in basic research in the materials arena, significant gaps exist in the research and development required to move these new materials from the laboratory bench to the marketplace. These gaps are being addressed by our foreign economic competitors using coordinated programs and resources with materials producers and users aided by the resources of government and universities. The Office of Science and Technology Policy (OSTP) and Office of Management and Budget recognized the importance of materials technology in providing greater industrial productivity, and economic growth, and in 1990 launched a budget crosscut on the Federal effort in materials science and technology. The Clinton Administration has maintained the continuity of focus on materials technology through the National Science and Technology Council (NSTC), its Committee on Industrial Technology (CIT), and the newly created Materials Technology Subcommittee.

In support of the NSTC priority of developing an integrated Federal R&D program, NIST plays a dual role. Dr. Lyle H. Schwartz, Director, MSEL/NIST, is chairman of the NSTC/CIT Materials Technology Subcommittee which provides inter-agency planning and coordination and private sector linkage on Federal policies/programs impacted by advanced materials technology. Concurrently, NIST has already begun coordinated activities with other Federal agencies in some of the proposed new program areas, or has identified additional Federal programs for the development of future coordinated activities that complement the NIST effort. For example, NIST has worked closely with ARPA in the extension of the concepts of intelligent processing of materials to the consolidation of advanced alloys for high performance applications. Under a National Center for Manufacturing Sciences consortium to develop lead-free solder alloys, NIST is working with Sandia National Laboratories to develop selection criteria for these new solder alloys.

NIST has developed a strategy to ensure that the technology it develops is relevant to industrial needs and to ensure that it is readily transferred to industry. NIST has a broad technical base in materials science and technology and is in a position to address the widest range of the needs of industry in the materials field. For example, as a result of technology transferred by an industry/NIST consortium that developed a system to control the production of metal alloy powder for aircraft engine components, one consortium member documented a substantial scrap reduction.

The proposed NIST program builds on these existing strengths in metals, ceramics, polymers, organic matrix composites, and cementitious materials and extends the areas of technical coverage to include accelerating commercialization of advanced materials and high performance infrastructure materials. The NIST programs are focused on major priority areas singled out by industry/government/university workshops and emphasize synthesis and processing and measurement science characterization of relevant materials. The program focuses on integration

of materials with design and manufacturing requirements by linking design and data, process optimization, fabrication, and testing in order to facilitate the acceptance and use of advanced materials and systems.

*Question.* What would be the focus of the increase in computer systems? How would these funds build on the current program, and how would NIST cooperate with other federal agencies involved in computer systems?

*Answer.* NIST will extend its standards efforts within a manufacturing application context; examples include digital product specifications which will enable computer aided design for electronic and mechanical engineering, apparel and textile design and manufacturing, and the design and construction of process industry plants. Industry would collaborate with NIST in establishing the standards agenda to be achieved, developing the standards, validating the standards, and subsequently developing tests for conformity and interoperability, and finally demonstrating prototypes within the Advanced Manufacturing Systems and Networking Testbed at NIST. NIST's program will also develop standards and technologies which the electronics industry has stated are requirements to achieve their semiconductor roadmap.

NIST also works with industry on standards for advanced communications technologies and services; examples include ATM (asynchronous transfer mode) technologies which promise to be the basis for both wide area networks—broadband, integrated services digital network (B-ISDN)—and local area networks which provide needed communications platforms. At the present time, these networks do not provide all the services that are needed by applications programs. Security services are an example. NIST will pursue a research and development agenda to develop and integrate security services into the information infrastructure. NIST will investigate the applicability of object oriented technologies to the specification of security modules for use within a networking context. Electronic commerce, health care, and manufacturing are application domains which need enhanced security services in networked environment (authentication, encryption, digital signatures). NIST will work with other agencies when program managers determine that there is a complementary relationship between joint R&D activities; often NIST's role is in standards and development of measurement or manufacturing technologies, and the other agency's role is in their application. Examples include collaboration with DOE/Sandia Laboratories related to manufacturing and robotics, and DOE/Lawrence Livermore Laboratories regarding electronic commerce in the electronics industry. Also, NIST is collaborating with NIH in the use of advanced communications technologies for local area networks in medical applications, and ARPA in manufacturing, computer security, voice recognition and performance of scalable, high performance computing systems.

#### NIST—ENVIRONMENT TECHNOLOGIES

*Question.* NIST is requesting an increase of \$4.2 million and 7 positions for work in environmental technologies. The intention is to develop advanced technologies in measurement and other areas connected with such technologies. The budget justification states that NIST will engage in "cooperative research agreements with industry and other Federal agencies" in this effort.

I know that Sandia National Laboratory has been heavily engaged in developing environmental technologies.

Have you assessed the abilities of Sandia in this regard?

Please provide for the committee a description of the work NIST intends to pursue in this area, and whether or not Sandia's resources can be used in a cooperative effort.

*Answer.* Although NIST is requesting an increase of \$4.2 million for environmental technologies we are asking for few additional slots. A significant amount of this funding will be used to replace other agency funds which NIST has relied heavily on in the past to carry out environmental activities. Part of the requested funding is earmarked for green building technology which will be carried out at NIST with various industrial partners. Another portion of the funding is intended for the development of Standard Reference Materials and Standard Reference Data, which are the responsibilities of NIST. In the area of generic technologies, NIST has collaborative efforts with Sandia in the use of supercritical fluid oxidation for waste elimination. This collaboration may expand in the future if future initiative funding is received.

#### NIST—MANUFACTURING EXTENSION PARTNERSHIP

*Question.* In 1995, NIST support for the manufacturing extension partnership would increase from \$30 million to \$61 million.

The program is intended to strengthen the competitiveness of small- and medium-sized manufacturing firms. According to the budget submission, NIST has established links with other federal agencies to avoid duplication and improve the accessibility of federal services to these firms. The budget document states, "NIST has agreements with department of energy labs at Sandia and Y-12 at Oak Ridge and with Department of Defense centers of excellence for those facilities to serve as technology sources for the extension network."

What is the nature of the agreements with Sandia and Y-12?

Answer. There are a number of agreements in place and NIST is working actively to develop further linkages to DOE technology sources. The California MTC has a formal agreement with Sandia to make use of their technology in serving client firms, and they use interactive videoconferencing (as well as more traditional means) to provide this service. NIST manages two TRP cooperative agreements with Sandia. One addresses the energy and environment needs of small companies and the other is a pilot project to define techniques for making internal technology more visible and accessible throughout the Manufacturing Extension Partnership network. NIST has formal agreements with Y-12 to cooperate in the development and dissemination of Best Manufacturing Practices, and to assist Y-12 in definition of a shared manufacturing facility/service center for small manufacturers tied into the Tennessee industrial extension system. Y-12 has provided technology assistance to manufacturers in the Southeast in cooperation with the Southeast Manufacturing Technology Center. NIST is managing a TRP cooperative agreement with Y-12 and the Great Lakes MTC for development of client tracking systems for the Manufacturing Extension Partnership network. Y-12 has placed several professional staff members at NIST as visiting staff for the Manufacturing Extension Partnership, to further develop cooperative means for utilizing available technology from DOE facilities. At the Departmental level, a DOC-DOE agreement is under development which will significantly ease the procedural burdens imposed on small companies seeking assistance from DOE facilities in connection with NIST manufacturing extension centers.

Question. How can such agreements work to make this a better program?

Answer. One of the fundamental principles of the Manufacturing Extension Partnership is to avoid duplication of resources, expertise, or facilities which are otherwise available. NIST seeks through the development of linkages with other Federal agencies to make use of their technology and facilities, and to respect their mission objectives. The agreements described above represent a part of the effort to make the fullest possible use of existing DOE resources in order to provide services to small and medium sized manufacturers. NIST is similarly working with the Small Business Administration on business and management planning and loan guarantees; with the Department of Labor on workforce training and workplace organization; with the Environmental Protection Agency on source reduction and environmentally conscious manufacturing; and with the Department of Defense on use of their laboratories, centers of excellence, Best Manufacturing Practices program, and CALS Shared Resources Centers.

#### NIST—GROWTH IN ADVANCED TECHNOLOGY PROGRAM

Question. The Advanced Technology Program, or ATP, would increase from \$200 million to \$451 million under the President's budget.

How much of this funding is required to continue to support grants made prior to fiscal year 1995?

Answer. The exact amount of funding required for the outyears of grants made prior to fiscal year 1995 cannot be determined until all of the fiscal year 1994 awards are selected. However, the ATP has developed budget estimates that project that approximately \$255 million will be needed to support the outyears of grants made prior to fiscal year 1995. This amount excludes other expenses such as administrative costs, Small Business Innovative Research Program set aside, and intramural research funds.

Question. Of the remaining funds, what technology areas will be targeted for support, and why?

Answer. Assuming that \$451 million is appropriated for the ATP in fiscal year 1995 and taking into account other expenses as indicated above, approximately \$143 million will be available to support one additional general competition (of approximately \$25 million) and 5 to 6 program competitions. The technology areas that will be targeted for support will be based on many program ideas submitted by industry (see previous question)—ideas are still being received. Many specific program options are being developed based on these ideas in a variety of broad technology areas such as construction technology, chemical processing, biotechnology, auto-

mated manufacturing, electronics, and information technology. Specific programs selected will be announced this fall. Those programs that best meet the four ATP Program Selection Criteria will be chosen. The four criteria are: potential for U.S. economic benefit, good technical ideas, strong industry commitment, and the opportunity for ATP funds to make a difference.

*Question.* What will be the size of individual grants?

*Answer.* The size of individual grants cannot be determined until individual projects are selected. The ATP enabling legislation requires that all single company awards must be under \$ 2 million and not exceed 3 years. Joint ventures can be funded up to 5 years but there is no limit on the amount of funding. Based on the past four general competitions, ATP single company awards are likely to average about \$1.5 million over 2 to 3 years. Joint venture awards are likely to average about \$7-8 million over about 4 years. With the introduction of program competitions in fiscal year 1994, it is possible that a greater number of joint ventures will form to apply for those competitions. If a greater percentage of joint ventures receive future awards (in the past 23 of 89 awards have gone to joint ventures), the average size of an award will increase accordingly.

#### NIST—WORKING CAPITAL FUND TRANSFERS

*Question.* The 1995 budget assumes transfers from the extramural programs to the Working Capital Fund of \$1,710,000. These transfers included \$1,200,000 from the Advanced Technology Program; \$300,000 from the Manufacturing Extension Partnership Program; and \$210,000 from the Quality Program.

Since these are extramural programs, why are funds transferred to the Working Capital Fund? What expenditures are made with these transferred funds?

*Answer.* The funds transferred to the Working Capital fund from this appropriation are for the purchase of computer equipment needed to provide administrative and programmatic support to the NIST ATP, MEP, and Quality Program staff that support the programs.

Depreciable or "capital" equipment assigned to NIST's program is purchased as an asset of the NIST Working Capital fund and amortized through charges to benefiting projects. Capital is made available for expansion programs through a transfer to the fund from the appropriation supporting the work.

#### SUBCOMMITTEE RECESS

Senator HOLLINGS. The subcommittee will be in recess until Thursday morning at 10 a.m. when we hear from the FBI and the Drug Enforcement Administration.

[Whereupon, at 12:29 p.m., Tuesday, April 12, the subcommittee was recessed, to reconvene at 10 a.m., Thursday, April 14.]



**DEPARTMENTS OF COMMERCE, JUSTICE, AND  
STATE, THE JUDICIARY, AND RELATED  
AGENCIES APPROPRIATIONS FOR FISCAL  
YEAR 1995**

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**THURSDAY, APRIL 14, 1994**

**U.S. SENATE,  
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,  
Washington, DC.**

The subcommittee met at 10 a.m., in room S-146, the Capitol,  
Hon. Ernest F. Hollings (chairman) presiding.

Present: Senators Hollings, Sasser, Kerrey, Domenici, Stevens,  
and Gramm.

**DEPARTMENT OF JUSTICE**

**FEDERAL BUREAU OF INVESTIGATION**

**STATEMENT OF HON. LOUIS J. FREEH, DIRECTOR**

**ACCOMPANIED BY:**

**BURDENA G. PASENELLI, CHIEF FINANCIAL OFFICER AND ASSIST-  
ANT DIRECTOR FOR FINANCE**

**JOHN HARLEY, DEPUTY ASSISTANT DIRECTOR FOR NATIONAL SE-  
CURITY**

**OPENING REMARKS**

Senator HOLLINGS. Good morning. The subcommittee this morning will continue its fiscal 1995 hearings with a review of the budget request for the Federal Bureau of Investigation and the Drug Enforcement Administration. Appearing first will be the Director of the Federal Bureau of Investigation, Judge Louis J. Freeh.

The FBI's request for fiscal year 1995 is \$2,138,781,000, representing a \$100 million, or 5-percent increase above this year's appropriated level.

Let me welcome Director Freeh. I note—or let us say he is testifying before the subcommittee for the first time. Joining Director Freeh at the table is Burdena G. Pasenelli, the Chief Financial Officer and Assistant Director for Finance at the FBI. We are pleased to have you both this morning, and we would be delighted to hear from you.

We now have your statement, Judge, and we will enter it in the record in its entirety, or you can deliver it or highlight it either way.

## OPENING STATEMENT

Mr. FREEH. Thank you, Mr. Chairman. It is indeed a pleasure to appear before you and this distinguished committee as my first testimony before the Senate committee, and I just want to compliment you and the other members of the committee and staff for what I inherited, which was an excellent working relationship and tremendous across-the-board support by this committee and staff, for which I am very, very grateful.

I think I will, if you do not mind, sir, read my statement.

Senator HOLLINGS. Surely.

Mr. FREEH. And I will try to highlight parts of it.

I would like to begin by saying that in the United States today there really is no debate about whether crime is a serious problem. We then ask how serious it is. Crime in the United States in our view is a disaster. When we ask how much of a disaster, we bring to mind the words of Winston Churchill describing a bitter defeat in World War II, calling it a disaster of the first magnitude.

I think we are better able to understand our crime problem when we look at it through the perspective of some other countries, very briefly.

In Japan recently the populace was justifiably shocked to learn that two college students, including one from Japan, were murdered in a carjacking in the Los Angeles area. That, of course, would be a shocking crime under any circumstances. One reason it may have been such a dreadful spectacle for Japan is that in 1992, for instance, there were only 956 murders in that country, undoubtedly a great number.

In the United States, unfortunately, in 1992 our records show 23,760 murders. Even allowing for the population differences, that comparison is somewhat staggering. That loss of life would equal one-half of the number of American military personnel killed in action during the entire Vietnam war.

Murder is not the only dreadful crime to report. In 1992, there were more than 109,000 forcible rapes, 672,000 robberies, 1.1 million aggravated assaults, and more than 12 million burglaries and other property crimes. It is unlikely that anyone has a foolproof answer as to why the United States has permitted this disaster of crime to occur, but we must move with all resolve to create within our own lifetimes and those, certainly, of our children, some real and substantial reductions in crime.

Not long ago, we were horrified as we read the reports, and as the FBI worked the case, regarding a 12-year-old girl from California named Polly Klaas who was kidnapped and murdered. There was a flood of public comment and horror. However, these crimes now occur with recurring frequency, and we become numb in some respects to the occurrence of such tragedies.

I think, in the vernacular, with respect to crime, it is time to stop fooling around. Dangerous offenders, once convicted, must be kept in jail for the appropriate terms so they cannot return to society to commit their crimes of violence.

We need many more police officers. It is the right thing to do, and one of the essential ingredients in any sound plan to reduce

crime. We need a ban on the manufacture and sale of automatic weapons.

For all these things and more, the country is going to have to find means to make sharp inroads against crime.

My specific responsibility in the FBI, which has fewer agents today than it did 3 years ago, is to keep that initiative current and make some effective inroads against the catastrophe of crime.

I seek your support, the support of this committee, for resources needed to help stop the spread of crime and to reduce the awful, debilitating fear that grips America. Sometimes the fear is worse than the crime.

#### RESTRUCTURING THE FBI

At the same time, I am also seeking to do much more with existing resources, especially in the ongoing efforts to refocus and restructure the FBI, particularly with respect to FBI headquarters.

I am not asking today for funds to hire more agents, but the Nation's crime problems, as you, sir, are very aware, are indeed very grave. In this time of high crime and stringent budgets, it is essential that the FBI carefully examine its structure and make the necessary adjustments to ensure the greatest number of agents are directly involved on the streets in the war against crime.

The FBI's most important work is performed by its street agents and the men and women who support them in the field. Day in and day out, these are the people who put their lives and safety at risk on the front line against crime.

In past years, the Congress has demonstrated its confidence in the FBI by supporting new investigative and technology initiatives such as foreign counterintelligence, financial institution fraud, counterterrorism, advanced telephony, NCIC 2000, and the integrated automated fingerprint identification system.

We are now in a budgetary environment where we are being asked to bear our share of the burden as the Government works to reduce its deficit. The FBI recognizes and accepts this responsibility. We must become more efficient in our use of financial resources. We must also strive to make the most effective and efficient use of our existing personnel.

One of my first acts as Director was to develop and implement a reorganization of FBI headquarters executive management to eliminate what I viewed as unnecessary layers of review which caused delay in decisionmaking and in support for the field operations.

In January, I announced a three-step plan to permanently reassign to priority investigations in the field at least 600 agents now holding supervisory and administrative jobs in field offices and headquarters. The first step involved the temporary detailing of 150 agents from FBI headquarters to our Washington, DC, and Baltimore offices to investigate violent crime, drug trafficking, public corruption, and national security cases. That phase has now been completed.

In the second phase, I will permanently reduce headquarters staffing by 300 agents through transfers this year, beginning this month, to field offices that urgently need more investigators. Twenty-seven of fifty-six FBI field divisions are presently under des-

ignated staffing levels for agents, and the heads of our 56 field divisions say they need more agents just to carry out current responsibilities.

In terms of our reorganization in headquarters, the transfer of the 300 agents will require up to \$24 million for relocation expenses which the Attorney General intends to make available from the super surplus of the Department's assets forfeiture fund, upon notification, of course, to the Office of Management and Budget, this committee, and the Congress.

The final phase involves adopting more efficient managerial practices in order to shift back to street-level investigations 300 additional agents now performing administrative and supervisory functions in our field divisions. These actions underscore my commitment to ensure that the FBI remains the preeminent investigative agency in the Nation by focusing the greatest possible attention on our primary investigative and intelligence missions.

Due to the timing of these actions, their effects are not reflected in this budget but will be part of a subsequent reprogramming action submitted for your approval.

#### OVERVIEW OF BUDGET REQUEST

Our 1995 budget request proposes \$2,138,781,000 and 21,076 permanent positions, and 20,629 direct funded work-years, including 9,244 agents and 11,385 support personnel. This request represents, as you noted, sir, an increase of \$100,076,000, or 4.9 percent over the 1994 appropriation.

This additional funding will cover those mandatory cost increases needed to maintain most FBI operations in 1995 at 1994 levels. Although proposed funding would increase in 1995, our staffing levels will decrease by a net of 861 permanent positions and 847 work-years, of which 842 are support employees.

Our 1995 budget includes no new program increases and proposes a total of \$27,870,000 in program decreases primarily associated with administration initiatives to reduce the size of the Federal work force and achieve savings in administrative costs and the absorption of the 1994 locality pay raise costs and its annualization in 1995.

The 1995 budget also proposes, under a separate appropriation, funding for 645 agents and 428 support personnel for the FBI's Organized Crime Drug Enforcement Program.

I hope to achieve these reductions through the current hiring freeze and attrition. I want to avoid a situation, as best I can, where it becomes necessary to either furlough employees or initiate a reduction in force. However, given the historic low levels of attrition now being experienced, this downsizing will be an extremely difficult task unless we can also offer voluntary separation incentives to eligible support employees. The recently enacted Governmentwide buyout legislation should help in that regard.

While the FBI's 1995 budget is in effect no growth, we are proposing a multifaceted investigative agenda by redirecting resources to give increased emphasis to cases of most immediate concern—violent crimes, gangs, health care fraud, civil rights, environmental crimes, and terrorism.

This realignment came after a very hard look at how we could best use available field investigative personnel to deal with these urgent crime problems. The FBI plans to shift 588 agents and 542 support positions in the 1995 base to address these priority cases.

As reflected in our 1995 budget proposal, I will redirect an additional 362 agent and 328 support positions to violent crimes, organized criminal gangs, civil rights, and terrorism, an additional 156 agent and 141 support positions to health care fraud investigations, and an additional 70 agents and 73 support positions to environmental crimes.

The FBI will not become ineffective or stagnate because of the constrained budgets. The FBI will refocus its energies and resources to aggressively attack the most urgent crime problems.

#### COOPERATION WITH STATE AND LOCAL LAW ENFORCEMENT

The administration is proposing an aggressive agenda of initiatives aimed at improving State and local law enforcement capabilities. The FBI is playing a key role in many of these initiatives. For example, criminal history records obtained from our NCIC system will be used to support the Brady Act, and will serve as a valuable resource to both existing and additional law enforcement officers hired under the administration's community policing initiative.

Similarly, our DRUGFIRE system and DNA forensic examinations programs will also help in the identification and prosecution of violent criminals and gang members. Our integrated automated fingerprint identification system initiative holds the promise of more timely and positive identification of subjects and arrested persons.

We are also operating 108 safe street task forces that combine the efforts of 599 special agents, 721 State and local officers, and 76 other Federal law officers. The task forces focus on crimes of violence and apprehension of dangerous fugitives. The FBI is working hard to expand its cooperative efforts with local and State law enforcement agencies.

Since becoming Director, many police officials have told me that Federal assistance is especially important to their efforts to reduce drug trafficking and the dreadful violent crime that drugs cause. Consequently, I am pleased that the Attorney General recently announced a plan to restore funding for Byrne grants to multijurisdictional task forces. This, together with grant funding to put new police officers on the streets, will go a long way toward helping State and local governments reduce violent crime in their communities.

#### CRIME CONTROL FUND

For its violent crime initiative, the administration's 1995 budget proposes the establishment of a crime control fund. Among other things, it would, in addition to the hiring of 50,000 new police officers, improve State and local criminal records identification systems and the development of the national instant records check system for firearms purchasers.

The crime control fund would be eligible to provide resources to support law enforcement technology. These funds could be used for

the FBI's Advanced Telephony Development Program, DNA forensic examinations and national database implementation, and second-year costs associated with the Brady Act. However, I understand there are no specifically designated funds for the FBI at this point.

#### DIGITAL TELEPHONY LEGISLATION

I have talked with several members of this committee, this subcommittee, concerning legislation that would protect the Government's ability to comply with court-approved electronic surveillance orders. Timely action on this critical legislation is needed to ensure that all law enforcement, Federal, State, and local, can continue to use this invaluable investigative technique to combat our most serious crimes—drug trafficking, organized crime, terrorism, foreign intelligence operations, public corruption, and frauds against the Government.

We are not in this legislation proposing to expand in any way the scope of current electronic surveillance authorization. Rather, we are asking your help in ensuring that the existing scope of court-approved activities can be performed in a rapidly changing technological environment. I urge you to enlist the support of your colleagues in passing this necessary proposed digital telephony legislation.

#### BUYOUT LEGISLATION FOR THE CRIMINAL JUSTICE INFORMATION SERVICES DIVISION

With respect to the Criminal Justice Information Services Division, I met on March 7 with the employees of our Criminal Justice Information Services Division to discuss their concerns over the scheduled relocation of fingerprint identification and criminal justice information services from Washington, DC, to our new facility in West Virginia. I told the employees that a previous commitment of guaranteed placement for individuals not relocating to West Virginia could no longer be honored due to the change in attrition rates and the effects on FBI staffing levels of the Federal Government downsizing.

I outlined the revised longer-term schedule for the transition of functions to West Virginia, along with a new policy for trying to place in other jobs at our headquarters those people who do not wish to relocate. One element of this new policy is my effort to obtain authorization for early retirement and voluntary cash separation incentives for members of the Criminal Justice Information Services Division.

Since the FBI is an excepted service agency, we would need legislation that would provide our CJIS Division employees with competitive service status when they are applying and being considered for competitive service positions in other agencies. Draft legislation in this regard has been prepared and is now being discussed with OMB.

#### PREPARED STATEMENT

Mr. Chairman and members of the subcommittee, I am fully aware of your difficult task as you craft the 1995 appropriations

bill. The steps that I have taken to streamline the FBI's organizational structure to put more agents on the street and to refocus our resources to investigations will allow the FBI to remain effective during these most difficult times of budget constraint. I respectfully ask your support for the difficult decisions that will follow as this budget is transformed into the 1995 appropriation.

Thank you, sir.

[The statement follows:]

STATEMENT OF LOUIS J. FREEH

Mr. Chairman and Members of the Subcommittee: I am pleased to appear before you for the first time and to present the Administration's 1995 budget request for the Federal Bureau of Investigation. I have already met with many of you and I look forward to working with you to build a strong and productive partnership that will benefit the American public, whom we all serve.

There really can be no debate about whether crime is a serious problem in the United States. We then ask: How serious is it? Let's speak plainly: Crime in the United States is a disaster. And we ask: How much of a disaster? As Winston Churchill described a bitter defeat in World War II, it is a disaster of the first magnitude.

At times, we may be able to better understand our crime problem when we look at it through the perspective of other nations.

For example, the people of Japan were justifiably shocked recently when two college students—including one from Japan—were murdered in a carjacking in the Los Angeles area. It would be a shocking crime under any circumstances. But one reason it may have been such a dreadful spectacle for Japan is that murder is not such a frequent visitor for its citizens.

In 1992, I am told, there were 956 murders in Japan.

In 1992, the Uniform Crime Reports show that 23,760 persons were murdered in the United States. Even allowing for our greater population, the comparison is staggering.

We can also look at it from another vantage point. The United States murder toll in 1992 equals half the number of American military personnel killed in action in all of the Vietnam War.

But murder isn't the only dreadful crime in the United States. In 1992, there were more than 109,000 forcible rapes. And 672,000 robberies. And 1.1 million aggravated assaults. And more than 12 million burglaries and other property crimes.

It's unlikely that anyone has a foolproof answer to why the United States permitted this disaster of crime to occur. But we must move with all resolve to create within our lifetimes real and substantial and lasting reductions in crime. For no nation, and certainly no democracy, could long survive the catastrophe whose outline we now see forming.

Not long ago, our own Nation was horrified when 12-year old Polly Klaas was kidnapped and murdered in California. There was a flood of public comment that said such crimes must be prevented in the future. Well, more than 20 years ago, I read press accounts about unspeakable murders of children, and there was the same public reaction—these crimes have to be stopped. But they haven't stopped. Things have only grown worse in that period—much, much worse.

I don't know why the Nation dawdles so on crime. But, it's time to stop fooling around. Dangerous offenders, once convicted, must be kept in jail for the appropriate terms so they cannot go back out into society and murder 12-year old girls.

We do need more police officers—many, many more. It is the right thing to do and one of the essential ingredients in any sound plan to prevent and reduce crime.

We do need a ban on automatic weapons. We have to take new initiatives now.

For all of those things and more, the country is going to have to find the means to make sharp inroads on crime.

My specific responsibility is the FBI, which has fewer agents today than it did three years ago. An FBI that is facing a growing workload while it focuses on such life-and-death priorities as terrorism, drug trafficking, violent crimes, and espionage.

I seek your support for resources needed to help stop the spread of crime and to help reduce the awful, debilitating fear that grips America. At the same time, I am also seeking to do much more with existing resources—especially in the ongoing efforts to refocus and restructure the FBI, particularly at FBI Headquarters. I am not

asking today for funds to hire more agents. But, the Nation's crime problems are very grave.

#### RESTRUCTURING THE FBI

In this time of high crime and stringent budgets, it is essential that the FBI carefully examine its structure and make the necessary adjustments to insure the greatest number of agents are directly involved in the war against crime. The FBI's most important work is performed by its street agents and the men and women who support them in the field. Day in and day out, these are the people who put their lives and safety at risk on the front line against crime.

In past years, Congress has demonstrated its confidence in the FBI by supporting new investigative and technology initiatives, such as foreign counterintelligence, financial institution fraud, counterterrorism, advanced telephony, NCIC 2000, and the Integrated Automated Fingerprint Identification System. The accomplishments in these programs have justified your investment.

We are now in a budgetary environment where we are being asked to bear our share of the burden as the Government works to reduce the deficit. The FBI recognizes and accepts this responsibility; we must become more efficient in our use of financial resources. We also must strive to make the most effective and efficient use of our existing personnel. I am confident the FBI and its dedicated employees will meet these challenges.

#### FBI HEADQUARTERS REORGANIZATION

One of my first acts as Director was to develop and implement a reorganization of FBI Headquarters executive management to eliminate layers of review that caused delays in decision-making and simplify Headquarters support for field operations.

In January, I announced a three-step plan to permanently reassign to priority investigations at least 600 agents now holding supervisory and administrative jobs in field offices and Headquarters. The first step involved the temporary detailing of 150 agents from FBI Headquarters to our Washington Metropolitan and Baltimore Field Offices to investigate violent crimes, drug trafficking, public corruption, and national security cases.

In the second phase, I will permanently reduce Headquarters staffing by 300 agents through transfers this year to field offices that urgently need more investigators. Twenty-seven of fifty-six FBI field divisions are presently under designated staffing levels for agents and the heads of our 56 field divisions say they need more agents in order to carry out current major responsibilities.\*

Going back now to my reorganization, the transfer of 300 agents from Headquarters to the field will require up to \$24 million for relocation expenses which the Attorney General intends to make available from the Super Surplus of the Department's Assets Forfeiture Fund, upon notification of the Office of Management and Budget and Congress.

The final phase involves adopting more efficient managerial practices in order to shift back to street-level investigations 300 agents now performing administrative and supervisory functions in our field divisions.

These actions underscore my commitment to ensure the FBI remains the pre-eminent investigative agency in the Nation by focusing the greatest possible attention on our primary investigative and intelligence missions. Due to the timing of these actions, their effects are not reflected in this budget but will be part of a subsequent reprogramming action submitted for your concurrence.

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I hope to achieve these reductions through the current hiring freeze and attrition. I want to avoid a situation where it becomes necessary to either furlough employees or initiate a reduction-in-force. However, given the historic low levels of attrition we are experiencing, this down-sizing will be an extremely difficult task, unless we can also offer voluntary separation incentives to eligible support employees. The recently enacted Government-wide buy-out legislation should help in that regard.

#### REALIGNMENT OF RESOURCES

While the FBI's 1995 budget is in effect "no growth," we are proposing a multifaceted investigative agenda by redirecting resources to give increased emphasis to cases of most immediate concern: violent crimes, gangs, health care fraud, civil rights, environmental crimes, and terrorism.

This realignment came after a hard look at how we could best use available field investigative personnel to deal with these urgent crime problems. The FBI plans to shift 588 agents and 542 support positions in the 1995 base to address these priority cases. As reflected in our 1995 budget proposal, I will redirect an additional 362 agent and 328 support positions to violent crimes, organized criminal gangs, civil rights, and terrorism; an additional 156 agent and 141 support positions to health care fraud investigations; and an additional 70 agents and 73 support positions to environmental crimes.

The FBI will not become ineffective or stagnate because of the constrained budgets. The FBI will refocus its energies and resources to aggressively attack the most urgent crimes.

#### FBI COOPERATION WITH STATE AND LOCAL LAW ENFORCEMENT

The Administration is proposing an aggressive agenda of initiatives aimed at improving State and local law enforcement capabilities. The FBI is playing a key role in many of these initiatives.

For example, criminal history records obtained from our NCIC system will be used to support the Brady Act and will serve as a valuable resource to both existing and additional law enforcement officers hired under the Administration's Community Policing initiative. Similarly, our DRUGFIRE system and DNA forensic examinations programs will also help in the identification and prosecution of violent criminals and gang members. Our Integrated Automated Fingerprint Identification System initiative holds the promise of more timely and positive identification of suspects and arrested persons. We are also operating 108 Safe Street Task Forces that combine the efforts of 599 FBI Agents, 721 State and local law officers, and 76 other Federal law officers. The task forces focus on crimes of violence and apprehension of dangerous fugitives.

The FBI is working hard to expand its cooperative efforts with local and State law enforcement agencies. Since becoming Director, many police officials have told me that Federal assistance is especially important to their efforts to reduce drug trafficking and the dreadful violent crime that drugs cause. Consequently, I am pleased that the Attorney General recently announced a plan to restore funding for Byrne grants to multijurisdictional task forces. This, together with grant funding to put new police officers on the streets, will go a long way toward helping State and local governments reduce violent crime in their communities.

#### CRIME CONTROL FUND

For its violent crime initiative, the Administration's 1995 budget proposes the establishment of a Crime Control Fund. Among other things, it would, in addition to the hiring of 50,000 new police officers on the street, improve State and local criminal records identification systems and the development of the national instant records check system for firearms purchases.

The Crime Control Fund would be eligible to provide resources to support law enforcement technology. These funds could be used for the FBI's advanced telephony development program, DNA forensic examinations and national database implementation, and second-year costs associated with the Brady Act. However, I understand there are no funds specifically designated for the FBI at this point.

Before I conclude my comments, I would like to briefly touch on two other issues—the proposed digital telephony legislation and the need for "buy-out" legislation for employees of our Criminal Justice Information Services Division.

#### DIGITAL TELEPHONY LEGISLATION

I have talked with several Members of this Subcommittee concerning legislation that would protect the Government's ability to comply with court-approved elec-

tronic surveillance orders. Timely action on this legislation is critical to ensure that all law enforcement—Federal, State, and local—can continue to use this invaluable investigative technique to combat drug trafficking, organized crime, terrorism, foreign intelligence operatives, public corruption, and frauds against the Government.

We are not proposing to expand the scope of current electronic surveillance authorization. Rather, we are asking for your help in ensuring the existing scope of court-approved activities can be performed in a rapidly changing digital technological environment. I urge you to enlist the support of your colleagues in passing the proposed digital telephony legislation.

#### "BUY-OUT" LEGISLATION FOR THE CRIMINAL JUSTICE INFORMATION SERVICES DIVISION

On March 7, I met with the employees of our Criminal Justice Information Services Division to discuss concerns over the scheduled relocation of fingerprint identification and criminal justice information services from Washington, D.C., to our new facility in Clarksburg, West Virginia. I told these employees that a previous commitment of guaranteed placement for individuals not relocating to West Virginia could no longer be honored due to the change in attrition rates and the effects on FBI staffing levels of the Federal Government downsizing. I outlined a revised, longer-term schedule for the transition of functions to West Virginia, along with a new policy for trying to place in other jobs at Headquarters employees who do not wish to relocate.

One element of this new policy is my effort to obtain authorization for early retirement and voluntary cash separation incentives. Since the FBI is an excepted service agency, we need legislation that would provide our Criminal Justice Information Services Division employees with competitive service status when they are applying and being considered for competitive service positions in other agencies. Draft legislation has been prepared and is being discussed with the Office of Management and Budget.

#### SUMMARY

Mr. Chairman and Members of the Subcommittee, I am fully aware of your difficult task as you craft the 1995 appropriations bill.

The steps that I have taken to streamline the FBI's organizational structure and refocus personnel resources to investigations will help allow the FBI to remain effective during these times of budgetary constraint. I respectfully ask your support for the difficult decisions that will follow as the budget is transformed into our appropriation for 1995.

Mr. Chairman, I would now be happy to answer the Subcommittee's questions.

#### REALLOCATING FINANCIAL INSTITUTION FRAUD AGENTS

Senator HOLLINGS. Very good, sir. We will work on that legislation and on the communications problem that we have, and we are glad to try to move it along.

You talked about the reallocation of 25 percent of your resources designated for financial institution fraud. That was back a couple of years when we provided \$109.5 million in the 1991 bill for the investigation and prosecution of savings and loans. Are you now proposing to take that money and put it in health care fraud investigations?

Mr. FREEH. We propose to take some of it. The proposal would be to reassign up to 25 percent of the current resources being dedicated to financial institution fraud, to health care fraud. The reason is the changing dynamics. We estimate conservatively that, with respect to health care fraud, those costs are approximately \$10 billion per year.

On the financial institution side, there has been a significant lessening in terms of the failures of institutions. We now have under 600 cases with respect to failures. There has been an increase in institutional investigations. We have over 10,000 matters. But the trend even there is for some reduction in certain areas of the country. So we think we can take advantage of this opportunity

to address a problem which is really a \$10 billion problem not being addressed by 40 of my 56 field offices.

Senator HOLLINGS. Well, I would, as a Senator, comment to the effect that we certainly want to continue financial institution fraud investigations. We have not fully completed the so-called White-water investigation. I am absolutely persuaded that if it was me or you they would not be going back 15 years to find out whether you made or did not make money in the S&L's. Whereas, one-half of the \$500 billion bailout—\$250 billion of it—was in the great State of Texas. Before approving any shift in resources, I would want to make sure that we also have sufficient investigations into where we bought a lot of country clubs and swimming pools and golf courses down in one State. I mean it just sticks way out. But that would interest me because that is where one-half of the \$500 billion total cost of the failed institutions occurred.

I do not want to be cutting back personnel dedicated to S&L investigations and saying this whole thing is over when it is not. There are still quite a few hanging out there.

#### TRANSFER OF AGENTS FROM HEADQUARTERS

I commend your decision to reassign 300 agents from FBI headquarters to the field where the need is more acute. But you would also reduce 842 support employees. Will you have enough nonagent personnel to fill the void when you reduce that many support folks and take another 300 agents and reassign them?

Mr. FREEH. I think there will be a void there of pretty serious magnitude. Of course, 341 of those support positions are in the field, which means that as I put up to 300 more agents out there, they will have to do more noninvestigative functions because of that decrease in support. So it is a serious problem.

Senator HOLLINGS. Well, in my own State, if the committee will indulge me, for example, we lost eight agents last year to retirement, including the supervisory agent in charge in my own hometown. Now there are 14 additional agents eligible for retirement, with 5 indicating that they will leave right soon. So it appears South Carolina will suffer a loss of either 14 or possibly 23 agents in less than 1 year. Maybe that is the experience in some of these other States too. I do not know, but crime is on the increase in South Carolina, and this will have a serious impact on our ability to address it.

Mr. FREEH. You are absolutely right. The purpose, obviously, behind the 300 agents is to fill offices, including the ones in your State, which are very sorely in need of new agents. Combine that with the fact that we have not hired a new agent in 2 years and the only place we are getting new agents from is this 300 deployment. But they will go to every division in the country and we will hopefully make up for many of the shortfalls, including in your State.

#### OVERTIME FOR TASK FORCES

Senator HOLLINGS. The Attorney General came to South Carolina recently and took a first-hand look at the violent crime task force in Columbia. That violent crime task force is doing an amazing job.

In just 4 months they have got 45 indictments already and 16 ongoing investigations. But if you are a State or local police officer involved in the organized crime drug task force you get overtime. But if you work for the violent crime task force you do not get money for overtime. Is that accurate? Why would any State or local agent choose to work on a violent crime task force?

Mr. FREEH. Well, we are addressing it in several ways. Hopefully, and I think it is prudent, as the Attorney General has indicated, to try first to see whether we can increase the willingness and motivation of people to work without parity between all the different task forces.

In my experience, as you well point out sir, agents and cops know exactly what everybody else on the job is making. And I have had the experience in New York City where at 5 o'clock city officers, who were not allowed to work because they could not get the overtime, left the surveillance and went home. And it is quite a serious problem and has to be addressed with either a raise, a record-level raise of their motivation, or some money.

#### AUTHORITY TO INVESTIGATE CIA EMPLOYEES

Senator HOLLINGS. I have a very serious question relative to following up investigations, particularly in between agencies. The CIA and the FBI are both in intelligence work. If you discover a dealing agent in the CIA, do you have authority to follow up on that?

Mr. FREEH. Absolutely. That would be a case that would, under our memorandum of understanding with the CIA, be referred to us for criminal investigation.

Senator HOLLINGS. Well, I think off the record I will go into that more thoroughly, because it is my understanding that there is some slip between the cup and the lip there with actual evidence of certain findings that were not followed up on with regard to the Ames case. But, you think you have got all the authority you need to follow up any investigation?

Mr. FREEH. With respect to espionage matters and domestic counterintelligence, I have clear and certain authority. And perhaps what we need to do is work a little bit closer and make sure we mutually understand what that authority is.

Senator HOLLINGS. All right, sir. Let me yield to my distinguished colleague here. I have got a long bank of questions.

#### REDUCTION OF FEDERAL EFFORT AGAINST CRIME

Senator GRAMM. Thank you, Mr. Chairman.

Director Freeh, let me first say that I am a strong supporter of the FBI. I am going to support your budget. Quite frankly, I think given the other things that we are talking about doing in the crime area, the budget request for Federal law enforcement in fiscal year 1995 makes absolutely no sense. We in the Senate have provided \$22.8 billion for our violent crime trust fund. We provided 100,000 additional police officers on the streets. We are going to build regional prisons.

I do not know whether the President really supports our bill or not. I noticed today you were talking about 50,000 police officers. So I do not know what the final number is going to be here, and

I am not here to get into an argument with you. But let me express my concern and listen to you respond to it.

I am concerned that at the very time that we are making a major commitment to help local government deal with crime that we continue to cut back on the Federal effort. And it seems to me that we should be talking about a joint effort here. As I look at the numbers that I have, despite the fact that in nominal terms your budget goes up slightly, you are talking about, again for the second year in a row, eliminating personnel—847 positions. DEA is talking about eliminating 355 positions at a time when the country is screaming about violent crime. The President's budget cuts prison construction from \$269.5 million, which is what we actually provided in 1994, to a \$191 million request this year.

If we were talking about current services, which is the way we really define budgets around here, we would be talking about a far larger cut than a \$78.5 million reduction. But you are still talking about a one-third cut in Federal prison construction. So on the one hand I hear all of this rhetoric about dealing with crime. I hear about a commitment of Federal resources, even though no money has been provided. I do not know what is finally going to happen.

But at the same time I see our Federal effort being reduced dramatically. It just does not seem to make any sense to me. And if our priorities are really to deal with violent crime, it seems to me the last law enforcement agency that I would ever want to cut back would be the FBI.

Now, I know your job is to do the best you can with the resources you are given. But I would just like to get your responses to my concerns.

Mr. FREEH. Well, I have sincerely the same concerns that you have. In my last job, I was a Federal district judge sitting in New York with seven vacancies on the court. And we were told by the chief judge that we each had to take 500 more cases, with, of course, no more resources to process and try a completely new docket of cases. What did we do? We did the best we could with the current resources, and we found some ways to economize.

I think there are two dynamics. The one dynamic is, speaking for the FBI, that we were a little bit inefficient and a little bit bloated in terms of the resources we already had. That is why I think we need 600 more of my agents working cases instead of supervising cases and coordinating other matters.

I am doing that. The question will be after I do all that will I still have sufficient resources to conduct my current mission? And I am not sure about that because I do not know how the crime bill is going to play out. As you well know, there are many authorizations in there which, if followed up with appropriations, would certainly alleviate the crisis that my agency and the other Federal agencies are in. I do not know how that is going to play out, and I have to do some more work in terms of economizing.

The question then will be, if I have done everything I can to economize, whether I have enough resources to do my job, and I quite frankly do not know the answer to that question.

Senator GRAMM. Well, let me just say that any help I could be, any concerns you have where you are trying to alert people in Congress who want to try to support your effort, if you will pass them

on to me that I would be very happy to try to look at working with you. I think it is very important, given that under the best of circumstances we are talking about a reduction of force of almost 850 people when we are talking about a major crime initiative. It just seems counterintuitive to me in terms of the logic of what we ought to be doing. I think it is very important that we provide at least the \$96.5 million increase that you have in your budget.

I think a failure to get that, so that you ended up having to cut 1,000 agents instead of 847, or personnel slots, I think that would make your problem a lot worse. So I am hopeful we can do at least as well as you have requested. And quite frankly I am hopeful that next year, based on whatever we do on the crime issue, that we can come back and look at the FBI's role in light of whatever the national commitment is, and maybe next year that we would be talking about an increase—even in what is going to be a tight budget.

I would guess if you let the American people choose between providing more funding for public television—last year in terms of authorization we raised funding there by \$285 million—and funding the FBI, I do not think it would be a very tight vote. And I guess that this committee gets a budget allocation and we have to try to do the best we can with that allocation. I just think that the public will is not being reflected in decisions when the FBI's losing people when we are supposed to be fighting a major war on violent crime.

Mr. FREEH. I could not agree with you more. I cannot conceive of Federal law enforcement authorities losing personnel at a time such as this.

Senator GRAMM. Thank you, Mr Chairman.

#### GROWTH IN NUMBER OF AGENTS

Senator HOLLINGS. Along that line, Senator and Judge Freeh, I am up there on the Senate floor listening to arguments about unfunded mandates. When we debated the crime bill, and we were putting the money in, they said "give us that money back at the State level and quit giving me these unfunded mandates." And there is another contention, too, that does not want a Federal police force and believes we only have specific areas of crime to be handled by the FBI. I watched that as a former Governor and chief law enforcement officer myself.

Now, we know right well that during the eighties we did come up from about 7,700 agents to a high point here it shows in 1992, of 10,475 agents. Under the 1994 budget, we had 10,044 actual agents on the street. That decline was not the result of your budget that you brought up, though. In 1995 we are going to have 10,039 agents on the street.

I have the same concern that the Senator from Texas has. I remember one time in the early eighties, we had a big talk down in New Orleans about the thin blue line between civilization and the criminal jungle. And then they came up after the talk and cut 1,000 agents. But, this subcommittee put 1,000 back in. I think you might have been with the Bureau at that particular time. So, we watch that very closely, and the full intent is to keep that agent force there.

I like the adjustments you are making, because we have gone up some 3,000 during the last 10 years in actual agents. And, you are

maintaining it, generally speaking, at a level 10,044, 10,039. Maybe you can take a few more out of headquarters and get them back to 10,044 so I can say on the floor no agents have been cut. Would that not be delightful?

Mr. FREEH. You would actually have to close headquarters to get to that number.

Senator GRAMM. Well, and the guys at headquarters must be doing something productive. All these guys behind you look like they must be doing some kind of work.

Mr. FREEH. They are extremely productive, and I do appreciate your support, Senator. I make the comparison to myself. I was a new agent back in 1974. I am now the Director in 1994. We only have 1,455 more agents in that 20-year period, and I think, given the 38 new major jurisdictions including drugs that we have received during that period, that is quite a challenge, and I think we have quite a good record so far.

But we are losing agents, obviously by your own facts. We peaked in 1992. We are going down. And since we have not hired any since 1992 it is not getting better in terms of the people, even if I were to close headquarters and put them all out into the street, which obviously I cannot do for organizational purposes.

#### STATE AND LOCAL TRAINING REIMBURSEMENTS

Senator HOLLINGS. Well, maybe we can get an adjustment when we mark up this bill.

Let me respond on prisons. We are building them, and we have actually got about \$1 billion in new construction in the pipeline. It is almost like the DOD budget, and you have got \$1 billion hanging there in the pipeline and everything else. To make sure we keep the proper agency force we might make some adjustments there, and we will be in touch with you on it.

On the reimbursement side, since we were touching on it, the budget cut some moneys there from the training program. I believe the FBI has recommended a policy change where the State and local officers no longer will be reimbursed for travel costs when they come up to Quantico. Those little things, that is what the Senator hears about, those little things. Those fellows all want to come up to the FBI Academy at Quantico and everything else. All of a sudden that \$225 per officer, that hits them pretty hard.

Mr. FREEH. It certainly does, and it impacts most adversely on the smaller departments who cannot afford the costs and who usually need the training. We have over 7,000 officers who went through Quantico last year, State and local, and that is money well invested.

#### RUSSIAN ORGANIZED CRIME

Senator HOLLINGS. Well, we will be looking to try and see if we can help there.

I understand that there is quite a threat with respect to organized crime in Russia. Are you keeping on top of that? Have we gotten that into the United States yet?

Mr. FREEH. We certainly do. We had a case last April in New York, a criminal case that was prosecuted. The defendants were a

joint venture of Russian organized crime individuals and La Cosa Nostra organized crime individuals importing large amounts of heroin, the first joint venture through the trial, and that is a trend that we are becoming increasingly alarmed about. There are about 100,000 organized crime members in Russia, 4,000 different organizations. Parts of that country begin to resemble Chicago in the 1920's. So the FBI and the DEA need very much to be present in there.

We have spoken to the Secretary of State, Ambassador Pickering, and they are very supportive of that request, but it is an expensive proposition.

Senator HOLLINGS. What about the Russian Government? Are they supportive? Do you get cooperation from the Russian Government?

Mr. FREEH. Yes, sir; with respect to the police matters, they need our help desperately.

Senator HOLLINGS. That is good.

In these foreign posts, are you having cutbacks over there?

Mr. FREEH. No; in fact, we have been expanding those. That has been a very critical area for us, because of the problems, for instance, in Russia—the organized crime problems. Those are going to be our problems in the next 5 years. We would like to start addressing them over there.

So, we have been actually building up attachés, Vienna, Athens, Caracas, and hopefully now in Moscow and probably about seven or eight other places around the world, where we should be.

Senator HOLLINGS. Well, in the past several years, you have opened up attaché posts as you said in Vienna, Caracas, and Athens. And, again, as the Senator was describing his concern, we do not want to be, you know, sending them out and taking them away from the regular agency force here. So, let us watch that very closely first.

Senator GRAMM. Mr. Chairman.

Senator HOLLINGS. Yes, sir.

Senator GRAMM. If you would send us some clippings on this joint venture in New York, it would be very interesting to have that. Anything you have on what is happening in Russia, I think that is information that most Members of Congress do not have. It is a frightening prospect.

Mr. FREEH. I met several weeks ago with one of the police generals in Russia. He described ordinary circumstances where their officers were using cabs to do surveillances, because they did not have either the vehicles or the gas to maintain them. So, it is a very desperate situation.

I will provide that to you, sir.

[The information follows:]

[Wednesday, April 28, 1993]

#### RUSSIAN GANG, MOB MEMBERS CONVICTED OF HEROIN SMUGGLING

Four members of a Russian immigrant gang and a New York organized crime mob were convicted Tuesday in an international scheme to smuggle heroin and sell it in the United States.

The four, convicted in Manhattan Federal Court, were among 18 charged with conspiracy in the case.

Evidence showed that the Russian defendants, including David Podlog, 46, and Adolf Sirotnikov, 52, were responsible for smuggling heroin from Poland into the United States, prosecutors said during the nine-week trial.

The heroin was then distributed in the United States through Calogero Badalamenti, 46, and Giuseppe Genna, 42, as well as others.

The main witness in the trial was a self-confessed Russian mobster who agreed to cooperate with the authorities.

The prosecutors said that other evidence included tape recordings of phone conversations intercepted by court authorities, wiretaps and large amounts of heroin purchased from an undercover agent from the federal Drug Enforcement Administration.

Those convicted Tuesday are scheduled to be sentenced July 26, when they face up to life in prison.

The convictions brought to 16 the number who have been convicted or pleaded guilty to charges stemming from the investigation of the scheme.

#### CHILD PROTECTION ACT

Senator HOLLINGS. Talking about West Virginia and the automated fingerprint identification system over there, if you pick me up from the fence out here on the street and got my fingerprint, how long would it take you today to identify that fingerprint?

Mr. FREEH. Assuming we had a set of your fingerprints to begin with, about 2 weeks.

Senator HOLLINGS. Still 2 weeks?

Mr. FREEH. Yes.

Senator HOLLINGS. But you could not hold me for 2 weeks?

Mr. FREEH. Not under our laws, I could not.

Senator HOLLINGS. So, we still are behind the curve, then.

I am stretching here on a couple of mundane questions, because our distinguished ranking member is on the way.

With respect to the Child Protection Act, for example, legislation designed to do fingerprint checks on both volunteers and workers who interact with children to ensure they have no history of child abuse, what impact will that have on the FBI? What about the FBI's ability to fulfill possibly 5 million additional fingerprint checks? Does that come to you?

Mr. FREEH. Yes, sir; it does come to us. And those 5 million examinations on an annualized basis would be quite expensive. There is, as you know, in the legislation a provision for a user fee. The problem becomes whether in every case, for instance, the Boy Scouts and other charitable organizations, we could or should charge that type of fee. So, there is a funding infrastructure in place, but it may be difficult in many cases as a policy matter to try to collect those fees.

Senator HOLLINGS. What about the provisions under the Brady Act to conduct background checks? How does that work?

Mr. FREEH. We are spending up to \$10 million through 1994. We have a \$6 million funding source, which will be in the crime control fund, which will take us through 1995. That will carry us to the point where we should be able to do the instant checks by 1998, which, of course, is the goal.

#### FBI LABORATORY POLICY CHANGES

Senator HOLLINGS. Recently, they tell me that the FBI laboratory policy, with regard to accepting evidence from State and local property crime cases, has changed in that the FBI will no longer accept

evidence for examination in property crime cases unless there is a personal injury or an attempt to cause personal injury. Why? Is that the change in policy?

Mr. FREEH. Yes, sir; as of July 1, they will stop making examinations submitted for property crimes unrelated to personal or violent-type crimes unless there is some other overriding reason. That is, again, unfortunately, the result of a reduction in examiners over a 4-year period.

It will affect about 25,000 cases we do every year.

Senator HOLLINGS. But you are coordinating that with the local folks. How many cases are involved?

Mr. FREEH. Twenty-five thousand per year.

Senator HOLLINGS. Twenty-five thousand?

Mr. FREEH. Twenty-five thousand.

Senator HOLLINGS. Have you considered perhaps using another user fee there to try to continue that? We have got the crime bill. If I was in the conference I would try to put a little user fee, because that is a volume, 25,000 cases.

Mr. FREEH. Certainly, a change in legislation, which is required, would alleviate the problem. Again, as a policy matter, as we start charging State and locals for these examinations, there will be an adverse impact on the localities who cannot afford it.

So, I think it is something that, if it is used, would have to be structured in some way to protect most of the departments who could not afford to process those fees.

Senator HOLLINGS. Good.

Senator Kerrey.

Senator KERREY. Director Freeh, I would say directly, welcome to the committee.

Mr. FREEH. Thank you.

#### ESTABLISHING FBI PRIORITIES

Senator KERREY. But I am also increasingly troubled by the disconnect between—not your when I say this—our—sometimes in my own personal rhetoric, about fighting a war on drugs and what appears to be happening out there on the street.

Omaha was invaded with crack cocaine sometime in 1986 or 1987. The nature of crime changed just like that. I mean, overnight it went from a situation that the law enforcement people had under control to one where they absolutely do not have it under control now. We have a 90-percent increase in admissions to emergency rooms with drug-related problems. We see in Colombia, the Cali cartel pretty much being able to do what they want to do.

How are the priorities arranged inside FBI? How are those priorities reflected in your budget?

Mr. FREEH. The priorities are obviously well thought out and well reviewed on a continual basis. In our budget, for instance, we prioritize the assignment of agents. If you leave aside the counter-intelligence operations, most of our resources go into the two general primary categories. One is the violent crime/organized crime major case operations. The second one is the white collar crime program and related matters.

We have obviously a very finite source of resources to address increasingly dangerous trends, as you have identified. We have, for

instance, with respect to gangs, done and are doing now, through the U.S. attorneys, an antiviolen crime initiative, where we are asking all the U.S. attorneys to sit down with the State and local cops and prosecutors, come back with a strategy—actually by the end of this month—and then focus and consolidate all those resources with respect to those problems.

#### FOREIGN ROOTS OF VIOLENCE IN THE UNITED STATES

Senator KERREY. Let me give you an instance where, in my own thinking, I am thinking that I have to either—in Senator Moynihan's words—find the deviancy down and accept a higher level of violence than I should, or applying a double standard. Or maybe my thinking is wrong, which is sometimes the case.

When the World Trade Center bombing occurred there was immediate outcry, political and nonpolitical, and it resulted in a deportation, as you know, and a lot of concern about a terrorist attack on a U.S. asset and Americans being killed. It caused a great deal of concern, terror, and consternation on the part of our people.

But I am wondering if it is appropriate for me to compare that to the relative calm and lack of concern when we see Americans losing their life in violence on the street. And you may not be able to track it directly to Colombia. You may not be able to track it directly to a foreign source. But certainly we know it is being grown. And there are lots of foreign suppliers along the way.

Do we have a double standard here? Should we be talking with greater concern about people that are executed on the streets of New York or Detroit or Philadelphia? And should we consider this to be on a par with the violence that we saw at the World Trade Center?

Mr. FREEH. I think it should be on an absolute par. I do not see any distinction between either the World Trade Center bombing case or the 23,000 people that are being murdered a year, or, for that matter, national security as it traditionally is looked at in terms of foreign affairs and domestic security—domestic security, which is the streets of America. And your State is exactly on a par with national security. It should be.

Senator KERREY. But how do we do that? How would you suggest that we do that? How do we go from the recognition that they are on a par to generating the same kinds of concern and energy that we had for the World Trade Center? I mean, we saw that as an external threat. And we responded appropriately. But with cocaine and crack cocaine we are not. We just genuinely are not, it seems to me.

Maybe I am missing something here, but I do not think so. I think we have accepted this as a part of American life. And I am here to just say we are going to stop doing it. And let people know that importing cocaine to the United States of America that we regard that the same way we do as somebody that is importing terror and blowing up a building in New York City, that they are on the same level. And our response is going to be identical. Our attitude is going to be identical. Our willingness to pursue is going to be identical.

Unless it is, it seems to me, they are going to say, you know, these guys know that in the end that we are going to—you know,

we will prosecute them, but, in the end, we will sort of make a good show of it and not really follow all the way through.

Mr. FREEH. I think the focus that you outlined is critical and needed.

Senator KERREY. Well, I have got to tell you, I think unless we do that we are going to lose respect. I think unless we say, this is the threat. This is an external threat, joined by internal demand, certainly, joined by internal conspiracy—there is no question about it. But it is a combination of external and internal threat that on a scale is much greater than world terrorism.

We are much more at risk on a constant basis to be killed as citizens, to have our lives ended as citizens this evening as a consequence of people that are trafficking in drugs than we do from the people that are trafficking in Muslim terrorism it seems to me.

Mr. FREEH. Yes; I could not agree with you more.

#### FBI-CIA RELATIONS

Senator KERREY. Can you tell me what—the press has been reporting, and you have been before the Intelligence Committee as well—the friction between the FBI and the CIA? Can you tell me what is being done to rectify that?

Mr. FREEH. Yes; I have had and have been having a series of meetings not just with the DCI, Mr. Woolsey, but we have been coordinating those meetings through the White House. And we are reworking some of the traditional ways and means by which we have shared information and acted on information—espionage intelligence—and the very necessary breakdown between those disciplines.

We have a series of meetings to be completed on a very short deadline. And then, hopefully, the President, by Executive order, will have some recommendations, which I think will enhance both the intelligence gathering operations and our domestic counter-intelligence and espionage missions.

Senator KERREY. Are you willing to make a personal evaluation of any lack of what I would call personal discipline of duty, honor, country inside of the Agency that was tolerated more than, for example, you would tolerate it inside the FBI?

Mr. FREEH. I do not think I have enough information to make an assessment like that. I think every agency in law enforcement has internal problems. The FBI has certainly had them, in the *Miller* case, for example. Every agency charged with those responsibilities has had, over the years, integrity problems, loyalty problems, honesty problems.

I hate to look at it as an occupational hazard of our business, but every agency in this business has had these problems. I think the answer is to take whatever measures possible to prevent those. And, when found, to vigorously and quickly enforce them and bring them to a termination.

#### RESTRICTIONS TO ESPIONAGE INVESTIGATIONS

Senator HOLLINGS. If the Senator would yield.

You use the expression, "acted on information." Is there—and I had asked this question earlier and the Senator from Nebraska is

better equipped—he is a member of our Intelligence Committee—do you have any inhibition, restriction, or prohibition from acting on information that you would have at the FBI level against some derelict or wrongdoer at the CIA?

Mr. FREEH. The only prohibitions against acting would be policy considerations as to the sensitivity of sources of information. We actually make the same decisions in criminal cases. Sometimes a U.S. attorney will not bring a criminal case because we would jeopardize the safety of an informant, to a degree where a policy decision is made not to bring the prosecution.

In espionage cases, the same balance between intelligence and prosecution takes place.

Senator HOLLINGS. It is not the political safety of the Director?

Mr. FREEH. That is never a consideration as far as I am concerned.

Senator KERREY. You have high moral standards, do you not, for your agents? I mean, if you have an agent that you discovered to be philandering or conducting himself or herself in a manner that is unbecoming, are there procedures to terminate?

Mr. FREEH. Yes; we have absolutely stringent procedures. I have sent out, in the last 2 months, two teletypes to all the FBI agents not only highlighting those procedures, but I have taken some action—in fact, action against two of my most senior officials recently, because I felt they were not complying with the restrictions that I believed they should work under.

#### INTEGRITY ISSUES AND COMMUNICATIONS PROBLEMS

Senator KERREY. So, you do not need a lie detector test, in many instances, to determine whether or not somebody is behaving in a fashion that allows you to say I can continue to trust they are upholding the high standards of the FBI?

Mr. FREEH. In most instances, with respect to integrity matters and Office of Professional Responsibility matters, we do not need that. That is a very selective and unreliable technique in many instances. In some contexts, it is very valuable. But it generally does not apply to the bulk of our internal integrity investigations.

Senator KERREY. Well, that is my own view, by the way, of what is going on over there. And it is not by any means universal. It is not by any means even in the majority. But it does not take much lowering of standards before you get in trouble, it seems to me. It does not take much, particularly in that kind of an operation, where the Nation's security is at stake—as it is with the FBI work.

You are doing work that is not just simple law enforcement. You are doing work where the Nation's security is at stake and people's lives are at stake on a ready, constant basis. And any slip, any slip and deterioration of an attitude of readiness puts everybody at risk.

And my own view is that is what happened over there. A relatively small number, but enough to do a lot of damage. And it is essentially a management problem. It is not a question of doing a better job with the polygraph. It is not a question—we may be able to improve our polygraph procedures, and we may be able to do a better job with all of that, but as far as I am concerned, it is not a technical breakdown. This is an attitude breakdown and basically

a moral breakdown. And one that is going to be corrected only with improved diligence on those issues.

Very quickly, and my last question, Mr. Chairman. It has to do with the data encryption standard issue and the Clipper chip. I supported both your and NSA's policy. Again, as I said to you, the reason is that the burden of proof for me has to be on the industry to prove that this is bad policy because of what is at stake. But encryption and all-digital signals are just two of the problems. We have got PBX. We have got cellular. We have got foreign-owned companies in here.

Are you confident that we are doing all that we should do to deal with our communications problem?

Mr. FREEH. Yes.

Senator KERREY. For example, we are not going to have to go to a mandatory Clipper? Are you confident that we, as oversight people, have thought this thing through enough?

Mr. FREEH. Right now I am comfortable that we have thought it through sufficiently. I think the priority in those two areas of concern is, first, the digital access problem. The encryption is a problem. But unless we maintain the access that we have now, it will not matter whether the communications are encrypted or not.

I think the legislation that has been proposed will solve the access problem. Even though it cuts out the PBX's and the computers, we will capture the bulk of the universe, where we have our most important intelligence and criminal needs.

On the encryption issue, I think if the administration's policy is pursued, the Federal Government, which buys 88 percent of the encryption devices, will make that market. And it will become a voluntary market.

And I think that despite the claims of the industry, once that market is established, the foreign manufacturers will be forced to use that same device. Because the foreign police agencies and intelligence agencies have told us that they will buy and support only that standardized encryption equipment, because they have the same needs that we do.

So, I think the voluntary procedure will work. If it does not work, obviously the question will be presented as to a mandatory usage.

Senator KERREY. For your information, in future discussion, I have doubt about our current policy, again, given what is at stake. I give you the benefit of the doubt. But I want to continue to examine the issue.

Mr. FREEH. Yes; I certainly appreciate your support, Senator.

Thank you.

Senator HOLLINGS. Very good. Thank you, Senator Kerrey.

Let me take one more minute here.

I noticed that we have got John Harley over here. He is in terrorism now? He has had good experience down in South Carolina.

Mr. FREEH. He claims it was the best experience of his life. [Laughter.]

Senator HOLLINGS. We will take him back. [Laughter.]

Mr. HARLEY. I would come back gladly, Senator. [Laughter.]

Senator KERREY. Mr. Chairman, I thought I was doing you a favor.

Senator HOLLINGS. Well, you are.

Senator KERREY. I have got one more question that I would be glad to ask just to fill up the air waves.

Senator HOLLINGS. Please do. Go right ahead.

#### FOREIGN COUNTERINTELLIGENCE REPROGRAMMINGS

Senator KERREY. I am concerned about—and we may be causing this, so you can be honest if we are—I am concerned about the reprogramming in the foreign counterintelligence budget. Some who are nastier than I have suggested that the FCI budget is basically being used as a cash cow. I am not nearly anywhere near that nasty, so I presume that there is a good reason for that reprogramming. And I would like to know if that reprogramming causes, in your mind, a deterioration in our capacity.

Because, obviously—at least it was obvious to me—that in the current world situation we are at greater risk not at a lesser risk—we are at a greater risk of all kinds of mischief out there that could do relatively severe damage to us. And I would just like to have you discuss that.

Mr. FREEH. Yes.

I do not think we have reached the point where we are jeopardizing in any serious way our ability to protect and execute all of our national security responsibilities.

We have recently taken a significant number of resources, including agent resources, and reprogrammed them to the areas where we feel most vulnerable. And I would be happy to discuss that with you separately.

In terms of overall reprogrammings, these, of course, have been going on since 1988. The world—everybody's knowledge has changed significantly. Many of the things we were doing, such as watching emigres from the Soviet Union and other countries, have really not, in the scheme of things now, been viewed as necessary.

A lot of that reprogramming, to be honest with you, is to fill the void created by the fact that no new agents have been hired in 2 years, and we are losing agents on a daily basis and we are not refilling them in all of our other non-national security areas.

My view is, however, that we still have sufficient resources for the current threats. But those threats change, as you well know, every day. And once they do, I may be in the position of having to take resources from some other area and put them back into those areas. And I will not hesitate to do that.

#### UNRESTRAINED GROWTH IN ENTITLEMENTS

Senator KERREY. I guess this is an editorial piece that I typically put out, and the chairman has had to suffer through it three or four times. But I am very conscious of what is going on right now with our budget is that all the domestic accounts are getting squeezed as a result of almost unrestrained growth in the entitlement programs. We have got a \$30 billion increase this year in health care, a \$20 billion increase in retirement—a \$50 billion total increase in those mandatory programs, and we will not even debate them, whereas we are going to have real cuts in everything else. Now, in some cases that may mean that we, 20 years from now, find out that we had not made the investments that we should in

agriculture productivity and we are not able to feed the world. We will have to deal with that as a consequence.

In some cases it may mean that our children do not have the skills that they need to compete in the world economy, and we will have to deal with that. But, as it relates to your work, and what I would appreciate very much, what I would find to be extremely helpful, is your well-known willingness to be honest, to come and say, look, here is where I am rationing the law enforcement effort.

And I hear you out there. I appreciate that when you are in a townhall meeting, Senator, somebody is going to get up and say, are we doing all that we could do to fight this battle on drugs? And you need to say to them, Senator, no, we are not. No; we are not because I cannot hire additional agents.

If there is that kind of shorting of the sheets, then we need to say so before the American people go the bag and find out what has been done to them.

Mr. FREEH. Yes.

Senator KERREY. And it seems to me that is what is going on.

Mr. FREEH. Well, we are being squeezed in that area.

Senator KERREY. I am not blaming the President.

Mr. FREEH. Yes.

Senator KERREY. It is not a shot at the President. It is not a shot at the administration. But sometimes in politics we allow a dishonesty to become a fact. And it seems to me that, at least in this area, that is precisely what we are doing. We are allowing—well, we are doing all that we can and we do not want to offend one another. So, the budgets, we are going to cover as many bases as we possibly can.

And I think, in fact, that we are deteriorating our FCI capability, at least marginally. And maybe it will not be a problem. Maybe we will be fine. Maybe nothing will happen and everything will be OK. But that was not the attitude of this country for 45 years, when we worried about the Russians coming through the Fulda Gap.

It was unlikely they would come through the Fulda Gap, but we prepared ourselves for that eventuality. And we spent a lot of money to prepare ourselves for that eventuality. And it worked.

And it seems to me that if we are going to win this battle on crime, we are going to have to do the same thing. And I just do not see us doing it.

#### ADDITIONAL COMMITTEE QUESTIONS

Senator HOLLINGS. Very good. Thank you very much.

Judge, we appreciate your appearance here this morning.

Did you have additional comment?

Mr. FREEH. No.

Senator HOLLINGS. Good. Thank you very, very much. And we appreciate your appearance here this morning.

Mr. FREEH. Thank you, Mr. Chairman. It is always a pleasure to see you, sir. [Pause.]

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

## QUESTIONS SUBMITTED BY SENATOR ERNEST F. HOLLINGS

## FINANCIAL INSTITUTION FRAUD REPROGRAMMING

*Question.* On March 21, 1994, the Subcommittee received a reprogramming notification from the Department of Justice seeking to reallocate up to 25 percent of the resources now designated for Financial Institution Fraud (FIF) Enforcement to Health Care Fraud Enforcement. The stated purpose of the reallocation is to provide the Department the flexibility to address the growing health care fraud problem—which appears to be escalating while the number of cases involving failed financial institutions appears to be on the decline (down 13 percent from fiscal year 1992 to fiscal year 1993).

Now, it was your predecessor, Judge Sessions, who in 1990 testified before this Subcommittee on the inability of the FBI to address FIF Investigations—as a result, I provided \$109.5 million in the fiscal year 1991 Bill for the investigation and prosecution of the savings and loan debacle. Before we approve this reallocation, I want to hear it straight from you that the FBI is realizing an increase in health care fraud cases and a decrease in FIF cases. Does this appear to be the situation?

*Answer.* Total FIF investigations have remained at or near 10,000 for the past several months. From the second quarter of fiscal year 1993 through January 1994, the monthly caseload generally has not changed by more than 100 cases, ranging from 10,000 to 10,100. Failure cases, generally more labor intensive than other FIF cases, peaked at 758 in July 1992 and declined to 594 by the end of January 1994.

The FBI's commitment to addressing Health Care Fraud (HCF) matters has grown dramatically in the past few years, as demonstrated by the following caseload and workyear data:

Number of pending Health Care Fraud cases:	
March 1992 .....	365
March 1993 .....	720
March 1994 .....	1,230
Health Care Fraud Workyears:	
1991 .....	71
1992 .....	125
1993 .....	162
1994 .....	<sup>1</sup> 228

<sup>1</sup> As of February 5, 1994.

In response to a November, 1993, survey, 24 of 56 FBI field offices advised that the FIF crime problem was abating and that they could reallocate FIF resources to other areas of the White-Collar Crime Program. These 24 offices estimated that 125 agents were no longer needed to address FIF matters. Further, the survey determined that 46 of the 56 field offices had unaddressed HCF work and that an additional 185 agents were needed to investigate these matters.

*Question.* Do you feel such a shift in resources will have a negative impact on bringing those responsible for the Savings and Loan mess to justice?

*Answer.* No. Although FIF continues to be a serious National crime problem, the problems associated with the numerous failures of financial institutions during the late 1980's appear to be diminishing. Financial institution failures have decreased and are expected to continue in this pattern. Since failure cases are typically more labor intensive than other FIF cases, the FBI believes that agents could be reassigned to investigate HCF matters if the trend in decreased failures continues. Even though the number of major FIF cases has increased, monthly statistics for the past year indicate that growth in total cases has leveled off.

*Question.* Do you feel we now have a more serious, unaddressed problem with health care fraud?

*Answer.* The FBI believes there exists a severe HCF problem in this country. The FBI and other law enforcement and regulatory agencies are aggressively addressing this crime problem. The FBI is following a strategy that allows us to maximize the effectiveness of our resources through a "team approach" in which the FBI emphasizes the benefits of HCF Task Forces, working groups, and joint investigations. The FBI has also consistently increased its commitment of resources to the HCF problem over the past few years.

Despite these efforts, the extent of unaddressed HCF remains very high. Forty-six of fifty-six FBI field offices identified unaddressed HCF matters in response to a recent survey. In many cases, the field offices cited large inventories of documented, unaddressed HCF cases which would definitely be investigated if resources were available. Several offices described those HCF matters they are able to inves-

tigate with current resources as only representing the "tip of the iceberg" of the overall HCF problem in their respective territories.

*Question.* If the full 25 percent is reallocated, how much will we be spending to investigate Financial Institution Fraud in fiscal year 1994 compared to fiscal year 1993? How much on Health Care Fraud?

*Answer.* The FBI is currently expending about 228 agent workyears in the HCF Initiative. There has been a significant increase in the past few months due to several ongoing investigations of National scope. Thus, the 228 figure may be somewhat higher than the level at which our resources should stabilize in the future (should no infusion of additional resources take place).

A total of 253 agent workyears would be reassigned to the HCF Initiative if the full 25 percent of FIF resources were reallocated. Such a reallocation would bring the total number of agents investigating HCF to approximately 450.

#### ENDING AGENCY DUPLICATION

*Question.* Last year, the Subcommittee urged the Attorney General to review drug law enforcement operations in order to eliminate duplication of effort, particularly in overhead and support infrastructures. Now, in addition to running the Department's largest law enforcement operation, Attorney General Reno has named you to the position of Director of Investigative Agency Policies ("DIAP")—essentially naming you the referee. Could you describe for the Subcommittee how you are proceeding in this new capacity? What types of issues are you addressing?

*Answer.* Thus far, the Director for Investigative Agency Policies (DIAP) has issued five resolutions. The first, dated February 1, 1994, directs that a common pointer index system be created for the purpose of sharing FBI and DEA investigative data; increases FBI participation at the El Paso Intelligence Center; and defines the role of the FBI and DEA in relation to the National Drug Intelligence Center.

The second resolution, issued March 1, 1994, directs executive management of Federal law enforcement agencies, working in conjunction with the U.S. Attorneys and State and local enforcement authorities, to submit a single violent crime investigative and prosecution strategy tailored to each Federal Judicial district.

The third resolution of April 5, 1994, establishes an Interagency Budget Advisory Council (IBAC) to coordinate criminal investigative agency budget requests, assess the potential for overlap and duplication, and advise the DIAP of issues that require intervention.

The fourth resolution, issued April 13, 1994, establishes a Justice Wireless Group (JWG) to discuss the Department's wireless communication requirements and implementation and to identify and support standards for wireless communications and interoperability.

The most recent resolution, dated May 9, 1994, establishes a Field Structure Working Group (FSWG) to identify possible areas of fragmentation or duplication among the Department's field offices and recommend possible areas of consolidation, including support personnel in the field, potential collocation of field offices, and other streamlining measures designed to improve coordination.

*Question.* Do you identify your own issues to act on or has the Attorney General given you a list of issues to start with?

*Answer.* The November 18, 1993, Attorney General Order establishing the Office of Investigative Agency Policies (OIAP) identifies issues for the DIAP to address, but also provides flexibility for the DIAP to raise other issues within its jurisdiction. Moreover, Department of Justice agencies can and have submitted issues for the DIAP's consideration.

The Attorney General's Order states that in the areas of overlapping jurisdiction of the criminal investigative agencies, the DIAP shall: (1) Improve coordination among agencies of the Department, both within the United States and abroad; (2) assure, to the extent appropriate, consistent operational guidelines; (3) establish procedures and mechanisms for coordinating the collection and dissemination of intelligence; (4) establish procedures and policies relating to procurement, including but not limited to procurement of communications and computer systems; (5) determine and establish procedures for the coordination of all automation systems; (6) establish plans to ensure the effective deployment of task forces; (7) establish procedures for coordinating the apprehension of fugitives; (8) establish programs to coordinate criminal investigative agency training; (9) advise the Attorney General and Deputy Attorney General on all investigative policies, procedures, and activities that warrant uniform treatment or coordination; (10) advise the Attorney General and Deputy Attorney General on the budgetary and resource requests of criminal investigative agencies; (11) perform other functions as may be necessary for effective pol-

icy-level coordination of criminal investigations; and (12) perform such special duties as may be assigned by the Attorney General or Deputy Attorney General.

*Question.* Are you getting the cooperation from the other agencies that you need to do the job?

*Answer.* Yes. Each agency has contributed substantially to these resolutions. I continue to be impressed with the shared desire among the participating agencies to conduct investigative business more effectively so that the Department may have the greatest possible impact on crime, given limited resources.

*Question.* What have been the results of this new office to date? Can you cite any savings?

*Answer.* Each of the five DIAP resolutions addresses improved coordination of the Department's investigative efforts, allowing the Department to make better use of declining investigative resources.

- Coordination of intelligence will allow the FBI and DEA to target resources on the most offensive drug trafficking organizations.

- Coordination of Violent Crime Task Forces promises greater exchange of information among law enforcement agencies and the more effective allocation of resources, personnel and nonpersonnel.

- Creation of the Justice Wireless Group will prevent inefficiencies that might have occurred because of duplication of effort or the purchase of incompatible equipment.

- The Interagency Budget Advisory Council was established specifically to highlight areas of wasteful duplication to the DIAP. This Council has begun to review areas of common interest to determine if savings might be created by merging certain efforts and by designing procurement contracts so that other Department of Justice agencies may purchase off of them, creating economies of scale.

- Finally, the Field Structure Working Group's analysis of the Department's field structure may result in savings of space costs and the more effective allocation of support personnel.

*Question.* One area that might be worth looking at for savings is the Organized Crime Drug Enforcement Task Force (OCDETF) Program. I'm not convinced that these resources wouldn't be put to better use by transferring the resources back to the individual agencies for allocation. By doing so, we would: (1) eliminate the OCDETF administrative function which appears to operate simply as a "pass-through" of earmarked funding to the participating agencies; and (2) permit the agencies greater flexibility in applying these resources to Violent Crime Task Forces, Fugitive Task Forces, or Organized Crime Drug Enforcement Task Forces. With fewer resources available, agencies need greater flexibility in their allocation of resources. Do you have any thoughts on such a proposal? Is this something worth looking into?

*Answer.* This certainly appears worth looking at. As a matter of fact, the suggestion to eliminate the OCDETF administrative overhead and designate funding specifically for the agencies is currently being considered by the Department of Justice. The FBI has provided the Attorney General with its position on this issue and is participating in discussions of this suggestion with officials of DOJ and other concerned law enforcement agencies.

#### DIGITAL TELEPHONY

*Question.* How is your Digital Telephony development program coming along? How will you use the \$9.6 million you have in your 1995 base? Is this sufficient to meet your development needs?

*Answer.* The \$9.6 million in base level funding referred to is not the base funding level of the FBI's Digital Telephony Research and Development (R&D) Program, but rather the base funding level of the FBI's entire Telephony Program. The base funding for the Telephony Program can be broken into three components: (1) funding for the procurement of new electronic intercept equipment (e.g., tape recorders and dialed number recorders) which accounts for \$3.6 million; (2) funding for the development and upgrading of electronic intercept collection systems, which accounts for approximately \$3.2 million; and (3) funding for Digital Telephony R&D, which is \$2.8 million.

The Digital Telephony Program is responsible for formulating strategies and developing methodologies to ensure the ability of the FBI to perform court-ordered surveillances on emerging and future electronic communications technologies. In the past three years, the FBI has supplemented the base funding of the Digital Telephony Program through reprogrammings from other programs. Due to the uncertainty in the level of funding for this program, it has been difficult for the FBI to engage

in long term development efforts in support of this program or to staff this program adequately.

Current FBI projections for fiscal years 1995 to 2000 indicate the following annual requirements in millions of dollars. The FBI feels that it is essential that the Telephony Program receive funding in order to establish and sustain a base level of funding to adequately address this critical mission.

(Dollars in millions)

	R&D	Development/up- grading of elec- tronic intercept collection sys- tems	Procurement of new electronic intercept sys- tems and equip- ment	Total annual funding required
Fiscal year:				
1995 .....	42.9	7.7	18.1	68.7
1996 .....	21.9	7.7	22.1	51.7
1997 .....	21.9	7.7	23.6	53.2
1998 .....	20.9	7.7	18.6	47.2
1999 .....	20.9	6.2	19.6	45.7
2000 .....	20.9	6.2	18.6	45.7
Totals .....	149.4	43.2	119.6	312.2

**Question.** Has the Administration made any decision on how it will pay for the legislative side of this problem—in other words, who picks up the costs of the industry implementation of these new requirements?

**Answer.** The Administration has concluded that the Federal Government should compensate common carriers for all reasonable costs directly associated with the modifications required to be performed by the common carriers in order to facilitate compliance with the Government's requirements. Section 3(h) of the Administration's proposed "Digital Telephony and Communications Privacy Improvements Act of 1994" provides the Attorney General, subject to appropriations, with the authority to compensate common carriers the aforementioned reasonable costs. Further, this subsection also creates a mechanism for resolving disputes between the Attorney General and common carriers over reimbursements by making them subject to a determination of the Federal Communication Commission.

Section 3(j) of the Administration's proposal provides for an authorization of appropriations of \$500 million for the reimbursement of common carriers. If enacted, these funds could be appropriated from the Violent Crime Reduction Trust Fund created by the Violent Crime Control and Law Enforcement Act of 1993, currently pending before the Congress. If the Congress were not to use this Trust Fund, it would be necessary to appropriate the funds from the General Fund of the Treasury.

**Question.** What progress have you made in having the legislative authorization included in the Crime Bill?

**Answer.** On March 25, 1994, the Administration forwarded to the leadership of both Houses of the Congress the "Digital Telephony and Communications Privacy Improvements Act of 1994." To date, the proposal has not been introduced in either House. However, Director Freeh has met with Judiciary Committee leadership and Committee members from both Houses and discussed with them the importance of this issue and the urgent need to enact the Administration's proposal in an effort to minimize the current and ever increasing threat to the public safety of our Nation's law abiding citizens and our national security. Discussions with Judiciary Committee leadership, to include Senators Biden and Leahy and Congressmen Brooks and Edwards, regarding enactment of this proposal are ongoing.

**Question.** Could you please briefly summarize for those who are still concerned over the privacy issues of wiretaps in general, why this legislation is so important and what safeguards have been included in it?

**Answer.** Court-authorized electronic surveillance is a critical investigative tool used by law enforcement to effectively enforce the law, ensure the public safety, and protect the national security against violent criminals, terrorists, and spies. The maintenance of this capability in the face of technological change is imperative.

Although this technique has been incredibly effective over the years, producing evidence leading to the conviction of over 22,000 dangerous felons, it nevertheless is used sparingly and judiciously. As you know, the law permits use of electronic surveillance only for serious felony offenses and only when other investigative tech-

niques will not work or are too dangerous. Also, there is rigorous and on-going oversight by the courts that approve its use.

The proposed legislation relates solely to removing, over a reasonable period of time, various technical impediments to electronic surveillance brought about by the deployment of advanced technology. It does not alter the requisite legal authorities or privacy protections afforded under current law. The legislation specifically makes clear that the privacy protections established in the electronic surveillance and pen register/trap and trace laws (e.g., in the Title III, Foreign Intelligence Surveillance Act, and Electronic Communications Privacy Act) are in no way affected or diminished.

The purpose of the proposed legislation is simply to prevent advanced telecommunications technology from repealing de facto the statutory authority already conferred by the Congress in the above-mentioned legislation. The intent of the legislation is to maintain technological capabilities commensurate with current statutory authority. Its purpose is to clarify and more fully define the nature and extent of the telecommunication service providers' "assistance requirement" that Congress first enacted nearly 25 years ago, in 1970. That requirement (that service providers "shall furnish [law enforcement] forthwith all the information, facilities, and technical assistance necessary to accomplish the interception \* \* \*") evidenced the Congress' clear intent that lawful electronic surveillance court orders should not be frustrated due to service providers' failure to provide needed technological assistance. The Administration supports this basic premise enunciated by Congress many years ago and, through this legislation is seeking to make sure that this assistance is in fact forthcoming pursuant to court order in today's world of advanced telecommunications technology.

Since advanced communications interceptions and dialing information acquisitions increasingly will be facilitated from within common carrier premises, the legislation contains a provision, entitled "Systems Security," which is intended to maintain the highest levels of telecommunications privacy and systems security. This provision requires law enforcement to notify common carriers of any interceptions that are to be effected within common carrier premises. Further, common carriers will designate individuals who exclusively will have the ability to activate all such interceptions for law enforcement. Law enforcement is not seeking any authority or ability to remotely activate interceptions within the premises of common carriers in a fashion that bypasses personnel designated by the common carrier. All executions of court orders or authorizations which require access to the switching facilities or other carrier premises will be made through the individuals designated by the common carrier.

Also included in the legislation are new amendments to the Federal criminal electronic surveillance laws (Title III) which expand and improve communications privacy protection: full privacy protection for handheld "cordless" telephones on a par with wireline and cellular telephones, clarification of privacy protection for electronic communications transmitted by radio, and privacy protection for communications transmitted using security-enhancing modulation techniques.

#### SUPPORT STAFF REDUCTIONS

*Question.* Your budget proposes a net reduction of 842 support staff in 1995—a reduction of almost 6 percent from your 1994 appropriated level. I share your concern over the impact of this action and I am wondering just how this came about. Are all of these reductions the result of the President's decision to shrink the Federal Workforce or are other factors involved—like absorption of the locality pay raise?

*Answer.* The proposed support workyear reductions are due to several factors, including: the Administration's initiative to reduce the size of the Federal workforce (-185); absorption of the 1994 locality pay raise (-228); the absorption of the 1995 locality raise (-74); and the effects of a continuing personnel compensation shortfall (-355).

*Question.* How many of the support staff will come from your field operations and how many will come from Headquarters?

*Answer.* The proposed 842 support workyear reduction consists of 501 Headquarters and 341 field personnel.

*Question.* If you move 600 agents into field investigative positions, won't you have an even greater need for support personnel?

*Answer.* Yes. To make the most effective use of our agent workforce, the FBI requires adequate support personnel. While the FBI is proposing the transfer of 300 agents from FBI Headquarters to field offices, there will be no concomitant transfer of additional support staffing. The absence of an adequate support personnel staff

requires agents to assume routine investigative activities such as performing criminal arrest record and credit checks, taking complaints from the public, monitoring court-approved electronic surveillance, and conducting surveillance of fixed locations and suspects. Overall, it is more cost effective for specially trained support personnel to perform these activities.

*Question.* Are you pursuing any innovative ways to make up for the loss of support personnel—perhaps the use of automation and computer-assisted typing pools? I think your Columbia, S.C. office is participating in such a pilot project?

*Answer.* Yes. Innovative methods to provide word processing, file maintenance, and other services more efficiently and effectively are being studied and implemented at the FBI. For instance, regional computer support centers have been in operation for over ten years at Ft. Monmouth, New Jersey, and Pocatello, Idaho, to provide a variety of word processing and related services to field offices. Similar services are provided by two information technology centers (ITC) located in Butte, Montana, and Savannah, Georgia. As you note, further improvements in word processing operations are being tested by our Columbia Field Office. The Columbia pilot project allows dictation to be electronically transmitted via an 800 number to the Savannah ITC. The Savannah ITC dictation center is operational 24 hours a day, seven days a week; the central processing unit contains five incoming dictation lines with the capability of switching overload dictation to a remote location at the Butte ITC.

#### CHILD PROTECTION ACT OF 1993

*Question.* Late last session, Congress passed and the President signed into law the Child Protection Act of 1993, legislation designed to ensure, through fingerprint checks, that both volunteers and workers who interact with children have no history of child abuse.

While I fully support the intent of this legislation, I have heard from a number of volunteer organizations who are concerned over the impact this legislation will have on their ability to continue to enlist volunteers to carry out their programs. Their concern is not over a volunteer's reluctance to submit to a fingerprint check but more to the costs incurred by volunteers and the lag time in performing these checks.

Was the FBI's Criminal Justice Information Services Division consulted on the States' ability to carry out this mandate in a timely manner prior to its enactment? What about on the FBI's ability to fulfill possibly 5 million additional fingerprint checks?

*Answer.* The FBI has no record of being consulted directly about the States' ability to process fingerprint checks in a timely manner. While FBI policy requires these fingerprints to be submitted through a State Identification Bureau, there is no requirement that the State fully process the prints. That is, the State may simply receive the prints, verify they were submitted from an authorized agency, and forward them to the FBI.

The FBI's ability to process these fingerprints is viewed as being a gradual increase. Prior to the Act, 35 States had requirements authorizing at least some type of child care provider checks. This number is expected to increase gradually, and with the user fees that the FBI receives for processing the prints, additional reimbursable workyears would be required to carry out this new responsibility.

*Question.* The Brady Act includes a two-tier approach to conducting background checks on would-be gun purchasers—utilizing the Interstate Identification Index (III) until the FBI's instant fingerprint check technology is in place. As a father of four young boys, a former Eagle Scout, and Director of the FBI, do you think the Child Protection Act of 1993 would be more manageable if it were amended to incorporate an interim and permanent check provision as exists in the Brady Act?

*Answer.* For clarification, the Brady Act does not call for the utilization of III under its interim provisions. The Attorney General has designated the National Crime Information Center (NCIC) wanted persons inquiries and a III check as a requirement of the chief law enforcement officer in those States that are affected. These checks are considered to be criminal justice in nature because they are a law enforcement agency responsibility.

In regard to revising the Child Protection Act to handle checks in a similar way, there are a number of considerations. First, it should be noted that the III is a decentralized system that makes use of State-provided criminal history records. Background checks involving volunteer youth organizations are considered licensing and employment checks in nature; therefore, the use of the III is prohibited. This restriction is based on statutes in some States that prohibit the use of State records for licensing and employment purposes unless a fingerprint-based check is conducted.

The use of III for purposes of the Brady Act is coordinated by law enforcement agencies who make the inquiries and use their professional judgement in interpreting the record responses. On the other hand, the Child Protection Act provides for the use of records by an "authorized agency" within the State that may not be experienced in criminal justice identification procedures. Without fingerprints to positively identify the individuals involved, records would be subject to misidentifications and misinterpretation. Also, without fingerprints, there are about 11 million non-automated records in FBI files that cannot be checked and there are a small percentage (but still a large number) of records that will be missed because the record is under a name different than that being used by the person.

*Question.* Do you think such a change would weaken the intent of this legislation?

*Answer.* If the intent is to positively identify those persons who should not work with juveniles, then such a change would weaken the intent of this legislation.

*Question.* What is the status of the Department of Justice's regulations for the Child Protection Act of 1993?

*Answer.* The FBI is still working to develop the reporting requirements to implement the Act, and no regulations have been issued.

*Question.* Has the FBI given the States any interim guidance in terms of the State statute or regulations that they will have to implement to comply with the Act?

*Answer.* In order to comply with the Act, States must pass a statute requiring national record checks for these purposes according to Public Law 92-544. Prior to the Act, 35 States had laws passed and approved according to Public Law 92-544. The FBI works with the States on an ongoing basis to secure the enactment of necessary legislation at the State-level.

*Question.* What is the FBI doing to ensure uniformity in implementing the new law?

*Answer.* The FBI is in the process of writing regulations to insure uniformity in implementing the new law.

#### BRADY ACT

*Question.* The President's budget request includes \$100 million for grants to States to upgrade their criminal history records so there would be up-to-date information for the National Background Check System for firearm purchases. Last year, this Subcommittee made up to \$10 million available to the FBI for start-up costs associated with the National Background Check System. Can you give us a status report on your progress in implementing the National Background Check System and how the \$10 million is being used? What is your timetable for complying with the Brady Act?

*Answer.* President Clinton signed the Brady Act on November 30, 1993. Impacts of the Act were presented at the NCIC Advisory Policy Board (APB) in Dallas, Texas, in December, 1993. The FBI forwarded copies of the Act to the NCIC Control Terminal Agency (CTA) in each State (e.g., State police agencies) soon after the Act was signed. In January and February, 1994, the FBI held planning conferences for State and local law enforcement officials in Washington, D.C., jointly with the Bureau of Alcohol, Tobacco, and Firearms. Issues relating to the National Instant Criminal Background Check System (NICBCS) were also presented to and discussed at each of the four NCIC Regional Working Groups (RWG) in March, 1994. A task group of law enforcement officials recently met with the FBI to help design how the permanent instant check system will work. The process of determining the type of computer hardware and software is ongoing at the present time, including telephone and other types of electronic devices to be used by licensees to contact the system.

One of the major issues regarding access to the National Instant Criminal Background Check System, is that it is highly desirable for contact to be made through a State system, to ensure all available State and Federal disqualifying information is provided for background checks on prospective firearms purchasers. Plans are to have recommendations presented to the NCIC APB in May, 1994, for review. Thereafter, recommendations will be made to the Attorney General before June 1, 1994, as to how the permanent system should work.

The following is the timetable required in the statute for DOJ compliance with the Brady Act:

—*By February 28, 1994.*—Designate a National system for law enforcement to check the backgrounds of handgun purchasers. (This requirement was satisfied).

—*By June 1, 1994.*—Notify States how the permanent instant check system will operate, how States will interface, whether by telephone and other electronic devices.

—By June 1, 1994.—Investigate each State's criminal record system, establish a timetable for States to provide records on-line to the national system, and notify each State of the established timetable.

—By December 1, 1998.—Establish a NICBCS for licensees to contact by telephone or electronic means, notify licensees and law enforcement how to use the instant check system, and supply information on prohibited persons immediately.

With regard to funding, of the \$10,000,000 currently available to the FBI, approximately \$7,500,000 is being utilized to acquire additional computer capacity to support the interim requirements mandated by the Brady Act. In addition, \$400,000 has also been provided to the Office of Justice Programs to conduct the State surveys mandated by the statute. The remaining funding is being expended to support initial software development activities associated with the interim requirements and to obtain contractor support to assist in developing the NICBCS.

*Question.* How many non-automated criminal history records still need to be processed? How soon will this be completed?

*Answer.* There are 7.8 million criminal history records still maintained on paper. At the outset, the FBI recognized that the conversion of approximately 8.8 million manual criminal history records to an automated format would require significant personnel resources. Therefore, the FBI has streamlined its processing methods to expedite the process. Since these records are of individuals born between 1929 and 1955, some of the files are inactive. It was decided to convert each record as it became activated by some type of inquiry, such as the receipt of incoming fingerprint cards, correspondence, or an inquiry through the III. By using this criteria, the manual records are being converted to an automated format in the course of processing the inquiry that activated the manual file, thus allowing an automated response to the inquiry that originally involved a manual record. All manual criminal history records activated since 1992 will be automated and available to support the Brady Act's NICBCS, which is mandated to be developed and implemented within five years. The remaining manual criminal history records will be converted as they become active or as personnel levels allow.

*Question.* Will the FBI receive any of the \$100 million that is proposed in the President's fiscal year 1995 budget as part of the Crime Control Fund? Will there be any funding requirements for the FBI beyond fiscal year 1995?

*Answer.* The Administration hopes to allocate to the FBI \$6 million of the \$100 million for second-year implementation costs of the Brady Act.

Funding provided in 1994 and 1995 is primarily to support the interim requirements mandated by the Brady Act; however, a portion of this funding is planned to be used to support initial developmental requirements associated with the National Instant Criminal Background Check System.

The process of determining the type of computer hardware and software is ongoing at the present time, including telephone or other types of electronic devices to be used by licensees to contact the system. One of the major issues regarding access to the National Instant Criminal Background Check System, is that it is highly desirable for contact to be made through a State system, to ensure all available State and Federal disqualifying information is provided for background checks on prospective firearms purchasers. The FBI expects the Attorney General will make an announcement, as required by the Brady Act on June 1, 1994, regarding this issue. A yet-to-be determined amount of funding may be required in the outyears to support implementation of the National Instant Criminal Background Check System.

#### FISCAL YEAR 1994 SUPPLEMENTAL FOR FINGERPRINT IDENTIFICATION

*Question.* A recent House Surveys and Investigations Staff report cited the inability to hire people up in West Virginia as a serious problem to your fingerprint automation and relocation plans. Congress acted upon that report by providing \$20 million in the 1994 emergency supplemental to permit you to hire 500 employees in West Virginia. We didn't do this as "pork-barrel," as some have called it—we responded to the findings of a Congressional study and I think we acted responsibly in doing our part to ensure you have the resources to complete this important project. Can you tell the Subcommittee the status of hiring the additional employees in West Virginia? When do you expect they will all be on-board?

*Answer.* Current timeframes associated with conducting background investigations and providing appropriate training to new employees will permit the FBI to process and hire between 35 to 50 general support employees each month. There is a large pool of approximately 4,000 general support applicants who are in various stages of processing and who have indicated an interest in working for the FBI in

West Virginia. As of 4/25/94, 47 new general support employees have reported for duty in West Virginia as part of the 500 new positions.

Of the 500 positions, 400 will be hired into general support positions with term appointments not to exceed three years. These term employees may be converted to permanent positions as current CJIS Division employees at FBI Headquarters, who chose not to relocate, either leave the FBI or are placed in positions in other Headquarters divisions and offices. One hundred of the 500 positions will be for permanent specialty hires such as computer specialists, engineers, and technicians.

If hiring projections of 35 to 50 general support per month hold true, the FBI anticipates that the general support applicants will be hired in West Virginia by February 1995. Specialty hires may require more time to hire because of the work involved in recruiting and identifying individuals with specific expertise and also because of the potentially longer length of time required to conduct a background investigation. Projections are that all 500 positions should be filled by the end of calendar year 1995.

*Question.* What do you anticipate they will be doing—Brady Act screening or other fingerprint work?

*Answer.* To ensure an up-to-date data base to support the requirements of the Brady Act, all incoming fingerprint cards/correspondence must be processed in a timely manner. Therefore, the majority of the new hires will be assigned to eliminate the existing fingerprint card backlog of over 260,000 fingerprint cards and to maintain the incoming work in a current status after the backlog has been reduced. Other employees will be assigned to key areas to support the transition of the Criminal Justice Information Services (CJIS) Division to West Virginia.

*Question.* How long will the \$20 million last in paying for these new employees and what plans does the FBI have to support these employees when the funding runs out?

*Answer.* The \$20 million is projected to last through the end of the first quarter of fiscal year 1996. As previously stated, 400 of the 500 positions are term appointments which will not exceed three years. The plan is for the employees in these term appointments to be converted to permanent positions as current CJIS Division employees at FBIHQ, who choose not to relocate to West Virginia, either leave the FBI or are placed in positions in other Headquarters divisions and offices. However, when the \$20 million is expended, the term appointments that have not been converted to permanent positions will have to be terminated.

#### USE OF FISCAL YEAR 1993 SUPPLEMENTAL FUNDS

*Question.* The FBI was provided \$32 million in an fiscal year 1993 supplemental appropriation to support national security-related programs. We took this action because the funding for these programs became hung-up over a defense authorization issue and this Subcommittee wanted to follow through on its commitment to fund these important national security activities. For the record, would you please provide the subcommittee with a breakdown of how this funding has been used to date—by project or item, and the plans for using the remainder of the funding, also by project or item?

*Answer.* The following table provides the breakdown of the \$32 million by project or item

[In thousands of dollars]

Project/item	Funding	Obligations/ expenditures (Mar. 31, 1994)	Requisitions awaiting award of contract	Remaining balance
Digital telephony development .....	10,000	2,117	7,883	.....
Surreptitious entry .....	5,500	656	3,674	1,170
Nonaccess/limited access intelligence collection .....	5,486	1,464	1,136	2,886
Personnel compensation .....	3,300	3,300	.....	.....
HRT ballistic training pod <sup>1</sup> .....	1,079	.....	220	859
Shoulder weapons (SWAT) <sup>1</sup> .....	3,968	12	3,956	.....
Protective equipment (SWAT) <sup>1</sup> .....	1,743	215	1,528	.....
Special project .....	700	700	.....	.....
Rapid start .....	224	1	223	.....

{In thousands of dollars}

Project/item	Funding	Obligations/ expenditures (Mar. 31, 1994)	Requisitions awaiting award of contract	Remaining balance
Total .....	32,000	8,465	18,620	4,915

<sup>1</sup> During the 1994 budget process, the FBI advised \$5 million of the 1993 supplemental funding would be used to offset part of the cost of the \$10 million counterterrorism initiative recommended by the Senate. These items correspond to that agreement.

## CARJACKINGS

**Question.** I understand a recent FBI report estimated there were 19,000 carjackings in 1991 and 25,000 in 1992, but found that the number of carjackings appeared to decrease for the first quarter of 1993. Do you think the decrease in carjackings during the first quarter of 1993 represents a trend indicating that carjackings are now on the downturn?

**Answer.** The FBI's first analysis of the carjacking problem in 1992 indicated that there were approximately 19,000 carjackings around the country in 1991. For 1992, a similar survey indicated that there were 29,639 carjackings. In the first quarter of 1993, it was estimated that there were 7,352 carjackings. When annualized, the 1993 figures suggest a probable total of 29,408 carjackings expected for 1993. This projection does not represent a significant departure from 1992 levels. All of the surveys conducted were accomplished by tasking FBI field offices with contacting local and State law enforcement agencies within their territories. Due to the large number of agencies, not all police departments could be contacted and the surveys represent a best estimate. Additionally, awareness of the problem increased between 1991 and 1992, so the number of crimes reported as carjackings increased accordingly. The FBI has not seen a downturn in the number of carjackings.

**Question.** When does the FBI get involved in a carjacking investigation? How many (carjacking) investigations does the FBI currently have open? How many of these cases do you expect to make their way to Federal court?

**Answer.** The FBI seeks to investigate and to present for prosecution those carjacking cases which involve career criminals, organized gang activity, and those cases which involve particularly vicious circumstances. Despite receiving exclusive Federal jurisdiction for the carjacking violations, the FBI does not compete with State and local police for jurisdiction over carjacking violators. Rather, the FBI has sought to assist police departments with carjacking investigations when Federal investigation and prosecution would serve to ensure appropriate sanctions for violators. FBI involvement in carjacking investigation may be further dictated by the prosecutorial position of the United States Attorney for a particular district.

For the 12-month period ending September 30, 1993, the FBI had conducted 1,269 investigations relating to carjackings. In the first quarter of 1994, the FBI had 784 carjackings under investigation. Since the FBI undertakes carjacking investigations under narrowly defined circumstances and with prosecutorial guidelines in mind, it is expected that virtually all of the carjacking cases which the FBI investigates, in which an arrest is affected, will be prosecuted in Federal court.

## TRANSFER OF EMPLOYEES TO WEST VIRGINIA

**Question.** As you know, the FBI's decision to relocate the fingerprint operations to West Virginia was announced several years ago. Yet, it appears that very few of your fingerprint operations employees are willing to relocate there—in a recent survey, I believe less than 200 indicated a desire to move. Can you tell the Subcommittee what steps the FBI has taken to encourage employees to relocate to the Clarksburg area? Have they had an opportunity to visit the area?

**Answer.** Over the past two years, the FBI has sponsored 18 one-day official business bus trips to West Virginia, helping approximately 800 Criminal Justice Information Services (CJIS) Division employees to get a first-hand look at local West Virginia communities. In addition, the FBI arranged six weekend promotional trips to West Virginia for approximately 250 employees and their families for the purpose of getting better acquainted with the area.

The FBI has sponsored various guest speaker programs on issues dealing with relocation assistance, stress, transition and change, and an African-American panel of West Virginia residents on the topic of West Virginia culture. In addition, special workshops to assist employees considering relocation with pre-qualifying for mortgage loan assistance and consumer credit counseling have been sponsored.

In 1991, the FBI held a West Virginia Day celebration and, in June 1993, a CJIS Division EXPO, for all FBI personnel to attend. At these events, employees were able to learn more about West Virginia, the CJIS Division, and career opportunities.

The FBI, in concert with West Virginia communities, developed a Host Family Program, which supports relocating employees and their families through the transition and settling in period.

An Employee Information Center (EIC) is located at FBI Headquarters, which provides information on a broad range of West Virginia-related issues, such as educational systems, health programs and plans, housing data, and county data. The EIC had approximately 8,000 visitors requesting West Virginia information or relocation and career guidance assistance in 1993. Another Center has been located at the FBI's satellite facility in Fairmont, West Virginia, to continue to assist employees after they have relocated to West Virginia.

An area of concern among some employees considering relocation has been the housing market in West Virginia, including the availability of rentals. During this past year, there has been progress in this area. As more and more employees arrive in West Virginia, new developments are being planned throughout the area. In fact, the FBI has urged West Virginia real estate developers to continue to develop additional housing and rental units.

The FBI has worked with the West Virginia Housing Development Fund (WVHDF), to take an active role in encouraging builders/developers to build new homes and developments. The WVHDF is providing "seed" money to cover the cost for small builders to put up model homes. The WVHDF also offers mortgage programs that are particularly supportive of low income applicants and first-time home buyers. Through the suggestion of the FBI, the WVHDF also established a 12-county Real Estate Task Force in 1991 to address housing issues and, most recently, this group has been instrumental in building a regional Multi-Listing Service.

In 1992, the FBI sponsored an Economic Impact Study involving numerous participants including the FBI, the staff of the Bureau of Business Research at West Virginia University, and many other community and business leaders. This study yielded a document which has been used by State and local officials, community leaders, realtors, developers, builders, and others who have an interest in working with the FBI to make the relocation of the CJIS Division a success.

*Question.* What do you think are the obstacles to employees moving to West Virginia? What else does the FBI plan to do to encourage these employees to relocate to the new facility?

*Answer.* For many employees the decision not to relocate to West Virginia is based upon personal preference. Many employees have families in the Metropolitan Washington area and would prefer to stay in the area. Additionally, a lack of adequate and available housing in the West Virginia area is also a concern to many employees.

To induce certain employees to relocate to West Virginia, the FBI has proposed incentive legislation offering Criminal Justice Information Services Division employees cash incentives to relocate to West Virginia. This legislation is now under review by the Office of Management and Budget.

#### WEST VIRGINIA RELOCATION

*Question.* I understand that you recently met with your Criminal Justice Information Services Division employees to address their concerns over the relocation to West Virginia and whether or not the FBI would be able to honor the employment guarantees for persons not relocating that were made by our predecessor. Could you summarize for the Subcommittee the reasons why the FBI has been forced to revise its employment guarantees and describe the new commitment that you have made?

*Answer.* In May 1990, former Director Sessions made a commitment to all Criminal Justice Information Services (CJIS) Division employees that, if they did not want to relocate to West Virginia, they would be provided other jobs within the FBI in the Washington, D.C., Metropolitan area. However, a combination of factors, including the overall downsizing of the FBI and decreased attrition rates, has limited the FBI's ability to place employees in other positions. On March 7, 1994, the CJIS Division employees were advised of the FBI's decision to relocate all CJIS Division functions to the new facility in Clarksburg, West Virginia. This decision included the relocation of the National Crime Information Center and the Uniform Crime Reporting functions. A letter to all CJIS Division employees, dated April 7, 1994, reaffirmed what was stated on March 7th.

The relocation effort is function driven and consists of a progressive, orderly transition of work operations, that is scheduled to continue into fiscal year 1999. CJIS Division managers have been provided a copy of the functional transition time line,

and employees were advised in the April 7, 1994, letter that they should contact their supervisor to determine when their function is most likely to be moved to West Virginia.

Employees have been advised that there will be no involuntary separations prior to September 30, 1996, based on the relocation of CJIS functions to West Virginia. As functions transition to West Virginia before September 30, 1996, employees who decide not to relocate will be placed elsewhere in the CJIS Division in some capacity until that date, after which they will be involuntarily separated unless selected for a job in another FBI division or office. Employees have been advised that, up until 60 days before the September 30, 1996, date, they can change their mind and relocate to West Virginia rather than face potential involuntary separation. However, making a decision to relocate when their job and work responsibilities are scheduled to go will be the only way in which employees will be guaranteed to retain their current grade and position or to receive any potential relocation incentive. If an employee chooses not to relocate when his/her function moves and then changes that decision at the last minute, the FBI may not be able to guarantee the employee his/her former position when he/she finally relocates to the new facility in West Virginia. For functions that are relocating after the September 30, 1996 date, employees have been advised that they will receive a notification letter seven months prior to the date that their function is scheduled for transition. At that time, employees will have to make a relocation decision. However, in this case, up until 90 days before the date their function is scheduled to relocate, employees can change their mind and relocate to West Virginia rather than leave the FBI.

Employees have been advised that if they decide not to relocate, they should focus on competing for advertised job opportunities in other FBI divisions and offices within the Washington Metropolitan area. Non-relocating CJIS Division employees are being provided preferential consideration for selections from candidate lists for FBI job advertisements.

Finally, the FBI has proposed legislation allowing relocation bonuses, voluntary separation incentive payments, and appointment of CJIS Division employees to competitive status for positions in other Government agencies. Without such legislative relief, the FBI may be forced to institute a reduction in force procedure, resulting in a still-to-be-determined number of employees being involuntarily separated beginning in the three-year period from 1996 to 1998, if they decide not to transfer to the new Clarksburg, WV facility.

*Question.* For the record, would you please submit a copy of the transition timetable for relocating functions to West Virginia, including a listing of the number of employees associated with the particular functions?

*Answer.* We are currently working on the transition timetable for relocating functions to West Virginia, and will submit a copy when the timetable is complete.

#### NCIC 2000

*Question.* Director Freeh, this subcommittee has provided the FBI with a total of \$73 million between 1991 and 1994 to develop and implement the NCIC 2000 system. We strongly support this system and believe it will greatly improve State and local law enforcement capabilities and help ensure that fewer fugitives and violent criminals avoid arrest. Could you please tell us what the current status of NCIC 2000 is and when the system will become operational? When do you expect all of the States to have converted to the new system? Do you foresee any problems or obstacles that may delay or prevent states from getting on the new system.

*Answer.* The Initial Operating Capability date for NCIC 2000 was scheduled for March 1995. However, discussions with the prime contractor, along with an independent assessment of the progress on the NCIC 2000 contract, indicate that the project is beginning to experience some schedule erosion. Several reviews are currently being conducted to assess the anticipated NCIC 2000 schedule impact.

The current schedule projects the States converting to NCIC 2000 by March 1998, or three years after IOC.

Depending upon the State, there could be a number of obstacles that must be overcome in order for all States to fully participate in NCIC 2000. The biggest technological change is that NCIC is a text-only system but NCIC 2000 includes image transactions. Most States will have to perform a major upgrade of their intrastate telecommunications systems in order to handle image traffic. Transmissions of images, including fingerprints and photographs of fugitives to allow identification of fugitives at the patrol car, is a key element in the NCIC 2000 upgrade. Each Control Terminal Agency (CTA) must, by March 1998, have the capability to handle those image transactions if the agencies within the State want to participate in the image transactions.

Switching to image transmission communication technology could be very expensive in some States and the funding for that upgrade must be provided by the State. Even though the NCIC 2000 contract awarded to the Harris Corporation does allow the State and local law enforcement agencies to purchase equipment and software off of the FBI's contract, the States will still have to provide their own funding to make those purchases. Another major obstacle to overcome is that involving the requirement to integrate NCIC 2000 capability with other intrastate law enforcement systems, which provide additional information to law enforcement officers within each State. Depending upon the complexity of the current State telecommunications network and the flexibility of the other State systems, that could present a substantial obstacle in some States.

*Question.* For the record, would you please provide a breakdown of the NCIC 2000 project, by fiscal year, showing how the funding has been used since 1991 and how the balance of the \$73 million will be spent in the future?

*Answer.* In support of NCIC 2000, Congress authorized the FBI \$73,000,000 during a four year period, beginning in 1991. Funding has been appropriated as follows:

1991 .....	\$17,000,000
1992 .....	22,000,000
1993 .....	21,000,000
1994 .....	13,000,000
Total .....	73,000,000

To date, the FBI has obligated funding totaling \$63,391,793 of the \$73,000,000. Of the \$63,391,793 obligated, \$45,799,564 represents the NCIC 2000 contract award to the Harris Corporation. The remaining funding has been obligated to fund required pre- and post-award support services, engineering change proposals, and FBI Headquarters Computer Center renovation. The FBI will expend the remaining funding during the 1994 and 1995 for engineering change proposals and continued post-award technical/engineering support services.

#### QUESTIONS SUBMITTED BY SENATOR ROBERT C. BYRD

##### HIRING IN WEST VIRGINIA

*Question.* Director Freeh, I proposed an amendment which was later adopted in Conference on the Emergency Supplemental Appropriation and Rescission bill which provides "For an additional amount for 'Salaries and expenses' to defray expenses for the automation of fingerprint identification services and related costs, \$20,000,000, to remain available until expended: Provided, that these funds shall be available to the Federal Bureau of Investigation to hire 500 employees to carry out the automation of fingerprint services without regard to any employment ceilings imposed by the President or by law." What steps are being taken by the FBI to accelerate the hiring of these 500 employees? Please give a date that you expect that these 500 employees to be on board at the FBI Fingerprint Identification Division. Please provide for the record a month-by-month hiring schedule with significant milestone events related to recruitment and hiring associated with the revitalization effort.

*Answer.* Current timeframes associated with conducting background investigations and providing appropriate training to new employees will permit the FBI to process and hire between 35 to 50 general support employees each month. There is a large pool of approximately 4,000 general support applicants who are in various stages of processing and who have indicated an interest in working for the FBI in West Virginia. As of April 24, 1994, 47 new general support employees have reported for duty in West Virginia as part of the 500 new positions.

Of the 500 positions, 400 will be hired into general support positions with term appointments not to exceed three years. These term employees may be converted to permanent positions once current Criminal Justice Information Services (CJIS) employees at FBI Headquarters, who choose not to relocate, are separated or assigned to other Headquarters divisions and offices.

One hundred of the 500 positions will be for permanent specialty hires such as computer specialists, engineers, and technicians. The new FBI facility in Clarksburg is scheduled for full occupancy in June 1995. At that time, the FBI will begin to move functions requiring specialized skills to West Virginia. At that time, there will be a need to begin hiring new employees possessing specialized skills.

If hiring projections of 35 to 50 general support per month hold true, it is anticipated that the general support applicants will be hired in West Virginia by February 1995. Specialty hires may require more time to hire because of the work in-

volved in recruiting and identifying individuals with specific expertise and also because of the potentially longer length of time required to conduct a background investigation. Projections are that by the end of calendar year 1995, all 500 positions should be filled. The following table provides a projected month-by-month hiring schedule:

PROPOSED SCHEDULE OF FBI WEST VIRGINIA HIRING 500 POSITIONS

	New general support hires projected	New specialty support hires projected
March 1994 .....	33	
April 1994 .....	37	
May 1994 .....	35	
June 1994 .....	35	
July 1994 .....	35	
August 1994 .....	35	
September 1994 .....	35	
October 1994 .....	35	
November 1994 .....	35	
December 1994 .....	35	
January 1995 .....	35	10
February 1995 .....	15	10
March 1995 .....		10
April 1995 .....		10
May 1995 .....		10
June 1995 .....		10
July 1995 .....		10
August 1995 .....		8
September 1995 .....		6
October 1995 .....		6
November 1995 .....		5
December 1995 .....		5
Total .....	400	100

The actual number of applicants hired each month may vary, but the FBI is working toward the goal of having 400 general support employees hired in West Virginia by February 1995 and 100 specialty employees by December 1995.

*Question.* Director Freeh, in your last IAFIS status report, you stated that the \$20 million will be used by the FBI to hire 35 to 50 new employees per month up to a total of 500 new employees. At that rate it will take at least 10 to 14 months to bring the total 500 new employees on board in Clarksburg. If a Government-wide freeze is enacted in September 1994, approximately 250 of the 500 employees would be on board at Clarksburg at that time. Such a freeze could delay the hiring of the remaining 250 employees for an indefinite period time. Has the FBI considered and planned for this possibility? Under the circumstances, would it not make sense to process at least 100 employees per month instead of the 35 to 50 planned for by the FBI? Such an action could avoid a potential serious setback in the staffing of the Clarksburg facility. If training 100 new hires poses a problem, would it not be wise for the FBI to process the new employees and delay the full orientation somewhat. It is my hope and expectation that the FBI will now proceed to embark upon an accelerated hiring program in order to assure that these 500 employees are hired as quickly as possible. Many of the potential hires have already been recruited and are awaiting the finalization of the necessary personnel actions. I am advised that the FBI has nearly completed recruitment and background checks on many potential new employees and these people are awaiting personnel action.

*Answer.* The FBI's West Virginia hiring plan did not consider the possibility of a September 1994, Government-wide hiring freeze. When the \$20 million appropriation was received, the FBI began developing a plan to hire the 500 additional employees in as short a timeframe as possible. Of the 500 employees, 400 are to be hired into term positions, while 100, with specialized skills, will be hired for permanent positions. With the hiring of 35 to 50 employees per month, the FBI projects

that the salaries of the 500 new employees could be paid from the \$20 million through at least December of 1995.

The FBI has developed a functional transition timeline for the full transfer of personnel and functions to the Clarksburg facility. The target of 35 to 50 new employees per month reflects the critical balance between time needed for applicant processing, background investigations, hiring, training and the transition of CJIS functions.

The FBI recognizes the urgency of hiring these employees and is committed to getting as many new employees on board as possible each month. However, because many of the general support applications are over three years old and also because a large majority of these applicants have not been processed for hiring, the "front end" work of contacting, testing, and interviewing applicants remains to be done. For every 15 general support employees hired, the FBI must process approximately 100 applicants. While the FBI has a pool of approximately 4,000 general support applicants to consider, the largest portion of those applicants require full processing prior to hiring.

Presently, the FBI is concentrating on getting additional numbers of applicants into the background investigation process. A single general support applicant background investigation can take between eight to twelve weeks. Based on the time-frame each applicant is given to respond to the FBI's initial inquiry regarding their continued interest in employment and to update their applications, and allowing for time to schedule and conduct necessary interviews and testing, it would not be possible to hire all of the additional employees in West Virginia by September 30, 1994.

#### VOLUNTARY SEPARATION INCENTIVES

*Question.* Director Freeh, what plans do you have for seeking authority and funding for early retirement and voluntary cash separation incentives for the FBI employees that do not wish to relocate to FBI's Criminal Justice Information Services Division in Clarksburg, West Virginia? I am told that such a buyout provision would cost about \$10,000, which is much less expensive than the average of \$50,000 cost to transfer a FBI employee from Washington to Clarksburg. What more can be done?

*Answer.* The FBI has proposed a minimum voluntary separation incentive of \$10,000 for Criminal Justice Information Services (CJIS) Division employees who choose not to relocate. This proposal is being reviewed by the Office of Management and Budget. The costs of voluntary separation incentives would be funded from existing and/or recurring base-level IAFIS funds planned for relocation expenses. No additional funding would be required to offer these incentives, nor would these incentives add to the overall cost of the IAFIS project.

It is projected that the average cost for each voluntary separation incentive would actually be \$17,000, based on the average salary of approximately 1,600 CJIS employees who indicated in an October 1993 survey they would not be willing to relocate to West Virginia.

The actual cost to transfer an employee to West Virginia varies, depending primarily on the property an individual owns and whether they rent or purchase a new residence. Based upon actual expenditures claimed by employees who have already relocated, the average cost to transfer an employee to West Virginia is currently between \$28,000 to \$30,000.

#### IAFIS PROGRAM OFFICE

*Question.* Director Freeh, the fiscal year 1992 Commerce, Justice State Appropriation bill included \$1.5 million for the establishment of a program office outside of the then Identification Division for the revitalization of the Division. What is its status and structure of this program office. Has any of the \$1.5 million for the establishment of this program office been expended?

*Answer.* In fiscal year 1992, the Congress provided the FBI with 10 support positions and \$1.5 million to establish a program office for the revitalization of the then Identification Division. To comply with the Congressional mandate to create a program office to oversee the development of the Integrated Automated Fingerprint Identification System, the FBI established the Criminal Justice Information Services (CJIS) Division.

The CJIS Division was established to provide the FBI with the management structure to effectively support the identification and information services provided to the law enforcement and criminal justice community. Key CJIS Division management personnel have been selected to oversee the development of the IAFIS project, and the overall organizational structure of the Division has been approved.

Funding provided for the program office is used for personnel compensation and benefits for the 10 positions and for travel, training, consulting, and other services in support of the IAFIS project.

#### NCIC/UCR RELOCATION

*Question.* Director Freeh, is the Department of Justice moving forward on your recommendation to relocate the National Crime Information Center (NCIC) and the Uniform Crime Reporting (UCR) functions of the newly created Criminal Justice Information Services (CJIS) Division from FBI Headquarters to Clarksburg? In your last IAFIS status report, you stated that you reviewed the matter and support the relocation because you deemed it to be critical for the development and maintenance of totally integrated criminal justice information services for the user community. Is it not also true that the economies from this cohesiveness, decision-making, lower overhead and increased opportunities for employee cross-training? Has the Department of Justice submitted this relocation proposal to the Office of Management and Budget (OMB) with a request for approval transmittal to Congress?

*Answer.* The FBI has formally proposed that the NCIC and UCR functions be relocated to West Virginia. On March 7, 1994, the FBI announced its plans for the transition of Criminal Justice Information Services (CJIS) Division employees and functions, including NCIC and UCR, to the new facility in Clarksburg, West Virginia. Subsequently, on March 8, 1994, the FBI forwarded a memorandum notifying the Department of Justice of this decision. On May 3, 1994, the Department of Justice submitted formal notification of this relocation to the Office of Management and Budget. Congressional notification will follow OMB approval.

#### IAFIS DEVELOPMENT SCHEDULE

*Question.* Director Freeh, I am told that the new CJIS facility being constructed at Clarksburg is on time and under budget. How would you characterize the automation project, including the development of the prototypes? When will the equipment be installed at Clarksburg?

*Answer.* The Integrated Automated Fingerprint Information System (IAFIS) segment contract award milestones have experienced slippage due primarily to more bidders responding to the Requests for Proposals released for each segment of the IAFIS project than had been anticipated. This, in turn, resulted in more questions being asked concerning the development of each segment of the IAFIS project than was originally anticipated.

IAFIS segment Initial Operating Capability (IOC) dates are linked to the contract award date. As a result of slippage in IAFIS segment contract award milestones, the IOC dates have been revised based upon the new projected contract award dates. The IAFIS project, including the Interstate Identification Index, the Identification Tasking and Networking, and the Automated Fingerprint Identification System, is to be fully operational in the first quarter of calendar year 1998. The FBI has completed the development of the Identification Tasking and Networking prototype.

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#### QUESTIONS SUBMITTED BY SENATOR J. ROBERT KERREY

##### CRIMINAL ENFORCEMENT PRIORITIES

*Question.* The Federal Bureau of Investigation (FBI) participates in multi-jurisdictional task forces across Nebraska. These task forces have been successful in promoting cooperation between the FBI, DEA, U.S. Attorney General, and local law enforcement to fight drug crime. The eight task forces in Nebraska encompass 81 of Nebraska's 93 counties or 94.68 percent of the State's population. How does the FBI measure success with regard to the multi-jurisdictional task forces? What results have been achieved in Nebraska?

*Answer.* In 1988, law enforcement executives in the Omaha metropolitan area recognized that the drug problem has substantially increased with the rapid rise of the Crips and Bloods street gangs, as well as an increased presence of Mexican organizations. Federal, State and local law enforcement management met and developed the Omaha Metropolitan Area Drug Task Force (MADTF).

The MADTF was established in 1989 based on a Department of Justice Byrne Memorial grant obtained by the Omaha Police Department through the State of Nebraska. The Nebraska Crime Commission has authorized a continuation of this grant annually. These grant monies are utilized for paying for space rental, utilities, and salaries for several local investigators.

In addition to the above, in the summer of 1991, a special gang investigative unit was formed between the FBI and the Omaha Police Department, to address the escalating violence being experienced in the Greater Omaha area. Intelligence was subsequently analyzed in order to select appropriate targets, to reduce or eliminate the violence. Since that time, in excess of 130 gang members have been indicted and successfully prosecuted in Federal Court, and the violence has been significantly reduced.

MADTF State and Local Statistical Accomplishments for January, 1990 to April 1, 1994 include: 2,898 local and State felony arrests and numerous seizures, including guns, vehicles, drugs, and cash. Additionally, the MADTF has utilized 32 State and Federal court ordered electronic surveillances over the last five fiscal years.

FBI Federal statistical drug accomplishments for the State of Nebraska for fiscal years 1992, 1993, and the first quarter of 1994 are:

Informations/Indictments .....	295
Convictions .....	215
Arrests .....	146

The MADTF exemplifies a truly positive and successful joint law enforcement effort. This unique task force is an exemplary model for law enforcement throughout the U.S. Based on its national reputation, numerous Federal, State, and local agencies have made inquiries as to the organizational structure and the ability to successfully work together.

#### *Lincoln/Lancaster County Task Force*

This task force was originated in 1988. Participating agencies include the FBI, DEA, Lincoln Police Department, Lancaster County Sheriff's Office, and the Nebraska State Police (NSP). Twenty-seven investigators are housed in an off-site facility. Each agency follows its own policies and procedures, shares information, and cooperates in major investigations. This task force made 322 State felony arrests from 1991 to 1993. The Federal arrests are included above.

#### *Grand Island Drug Task Force*

This task force is not funded by any Federal grant. The FBI has provided space in which the FBI, INS, Grand Island Police Department, Hall County Sheriff's Office, and NSP work mutually on OCDETF investigations.

#### *CANDO*

This task force covers six counties in rural south-central Nebraska and is coordinated by the NSP. There is no Federal agency participation as the cases do not rise to the level of Federal prosecution or the FBI's National Drug Strategy. The participants are aware that the FBI or other appropriate Federal agency would support any qualifying investigation that may be developed.

#### *CODE (Cooperative Operations for Drug Enforcement)*

This task force consists of 22 counties in southwest Nebraska and is facilitated by the NSP. A majority of their investigations are street and mid-level distributors. The FBI's North Platte Resident Agency and DEA have supported individual investigations.

#### *RAP (Rural Apprehension Program)*

This task force consists of 13 east/central rural counties. They are facilitated by the NSP. Their investigations center around local street level and mid-level dealers.

#### *SNARE (Specialized Narcotics Abuse Reduction Effort)*

This task force targets street-level drug dealers in eight northeast counties.

#### *WING (Western Intelligence and Narcotics Group)*

Eleven counties in the western Nebraska panhandle and the NSP meet to share intelligence. Eight investigators share an off-site facility and identify and investigate mid-level distributors.

#### *MULE (Mid and Upper Level Enforcement Program)*

The NSP receives Federal grant monies to conduct drug investigations in counties that do not have Federally funded multi-jurisdictional task forces. These funds have also been used to support the NSP crime laboratory drug analysis section.

These rural task forces are aware of the FBI's National Drug Strategy criteria. When a case is developed that meets Federal prosecution standards, the FBI and/or DEA is contacted to support the particular investigation. The FBI also participates in various intelligence sharing projects around the State involving drugs and gangs.

## BYRNE MEMORIAL GRANT PROGRAM

*Question.* This Subcommittee has jurisdiction over funding for the Byrne Memorial formula grant program. It is my understanding that much of this funding goes to multi-jurisdiction drug task forces and violent crime task forces in which the FBI participates. Can you offer the Subcommittee the Bureau's perspective on the usefulness of these task forces?

*Answer.* The FBI's experience with the task forces funded by this program, particularly in the State of Nebraska, has been positive. Well managed, properly focused, and carefully coordinated task forces increase law enforcement's overall effectiveness and productivity of limited personnel; eliminate wasteful expenditure of resources by duplication of investigations in matters of concurrent jurisdiction; and enhance cooperation and communication among Federal, State and local law enforcement agencies. In general, the FBI supports initiatives that facilitate meaningful cooperation among local, State and Federal law enforcement agencies.

## TREND IN INTERNATIONAL TERRORIST ATTACKS

*Question.* The February 1993 bombing of the World Trade Center brought home to Americans the threat posed by international terrorism. Was the World Trade Center bombing reflective of a growing trend in international terrorist attacks against Americans and American interests, or is the international terrorist threat fairly static?

*Answer.* The bombing of the World Trade Center complex and subsequent planned bombings in the New York City area are indicative of the potential for international terrorism in the United States. While statistics do not reflect an increase in the overall number of terrorist acts occurring inside the United States, the terrorism trend has changed.

Over the past year, there has been increasing concern both in the United States and abroad over acts of terrorism perpetrated by groups or individuals who are inspired by radical fundamentalist agendas. Radical fundamentalists are vehemently anti-U.S. and espouse a radical interpretation of Islam. The potential for terrorist activity by these individuals/groups certainly exists. This is due, in part, to the present state of global affairs, particularly in the Middle East, the Maghreb, as well as in the former Yugoslavia, which may be a catalyst for increased international activity by radical fundamentalists. This phenomenon currently occurring throughout the world is expected to remain a significant challenge for the U.S. and foreign law enforcement communities.

## ISLAMIC TERRORIST THREAT IN THE UNITED STATES

*Question.* What about recent press stories on an increasing domestic Islamic terrorist threat, as militants in America react to events without waiting for any foreign power to tell them what to do? To what extent are Iran and/or Sudan developing effective terrorist infrastructure in the United States? How good is FBI coverage of these targets?

*Answer.* The FBI is actively pursuing counterterrorism investigations related to international radical fundamentalists who utilize a radical interpretation of Islam to justify their violent acts. Appropriate resources have been dedicated to this effort. Specifics regarding these investigations are classified.

Within the United States are diplomatic and quasi-diplomatic establishments associated with state sponsors of terrorism such as Iran and Sudan. Additionally, there are terrorist infrastructures in place inside the United States that could be called upon by these state sponsors to engage in or support terrorism. The FBI's Counterterrorism Program has allocated sufficient resources to adequately address potential terrorism threats emanating from these terrorist nations.

## QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

## SHIFT OF AGENTS FROM ADMINISTRATION TO FIELD WORK

*Question.* What is the status of the effort to shift 600 agents into investigative positions?

*Answer.* The temporary detailing of 150 Headquarters agents to the Washington Metropolitan and Baltimore field offices, was accomplished by the end of March, 1994.

The permanent downsizing of agent staffing at FBI Headquarters is underway. In order to avoid the use of reduction-in-force procedures to accomplish this objective, the FBI is attempting to place affected Supervisory Special Agents from FBI

Headquarters in field assignments on a voluntary basis. Those FBI Headquarters agents who volunteer to participate in this initiative will be afforded grade and pay retention upon accepting demotion and placement in a field assignment. A reprogramming notification to effect these transfers was submitted to the Office of Management and Budget for approval. Thereafter, notification of the transfers will be forwarded to Congress for concurrence. Upon receipt of Congressional approval, the transfers will begin, using funds provided from the Super Surplus of the Department of Justice Assets Forfeiture Fund.

Finally, the redeployment of 300 field agents from administrative to investigative positions is centered on adopting new and more efficient managerial practices in field offices in order to reduce the number of agents involved in performing administrative tasks. This aspect of the restructuring is viewed as an on-going effort to be achieved through a series of management initiatives and reforms.

*Question.* When will the effort be complete?

*Answer.* The FBI anticipates completing the permanent transfer of 300 Headquarters agents by the end of calendar year 1994. Achievement of this goal will be dependent upon the availability of funds for transfer purposes and the degree of success achieved through voluntary placement efforts involving supervisory special agent personnel. Once in receipt of funding for the transfers, the FBI will begin to implement the voluntary placement effort. If reduction-in-force procedures are required, the period of time required for this process may be protracted.

Finally, the adoption of new managerial practices to reduce the number of agents performing administrative tasks in field offices is viewed as an on-going effort. No specific target date has been established for this phase of the restructuring.

*Question.* What will be the relocation costs, and how will they be covered?

*Answer.* The FBI projects the cost of transferring 300 agents from FBI Headquarters to field offices to be \$24 million. The Attorney General is making this funding available from the Super Surplus of the Department of Justice Asset Forfeiture Fund. A reprogramming notification has been submitted by the FBI in order to gain necessary Office of Management and Budget and notify our Congressional Committees.

#### SAFE STREETS TASK FORCES

*Question.* In the past the FBI has been criticized for operating as an autonomous law enforcement agency within the Federal system. I know you've been trying to change this. Do you have plans to expand the task forces to include other law enforcement agencies, both in New Mexico and Nationwide?

*Answer.* The FBI currently operates 108 Safe Streets Task Forces across the Nation, including one in New Mexico. Resource limitations and other priorities preclude the expansion in the number of Safe Streets Task Forces at this time.

When the FBI proposes the establishment of a task force, all appropriate Federal, State and local law enforcement agencies are invited to participate. The degree of participation is dictated in part by several factors, such as whether the focus of the task force is consistent with a particular agency's mission and the ability to assign resources to staff the task force.

*Question.* What efforts are you making overall to integrate the Federal law enforcement community in cooperative activities such as the Safe Streets Task Forces?

*Answer.* The Office of Investigative Agency Policies (OIAP) has a goal of furthering cooperative initiatives like the Safe Streets Task Forces. One of the first undertakings of the OIAP has been the consolidation of the various intelligence bases in the Federal law enforcement agencies responsible for drug enforcement. This is as an important and necessary first step in "integrating" and coordinating Federal law enforcement activities.

The OIAP violent crime resolution has directed that each judicial district with Federal, State, and local law enforcement jointly assess their violent crime problem and propose a single investigative and prosecutive strategy. This strategy shall be designed in partnership with State and local enforcement authorities, dedicated to the coordinated investigation and prosecution of violent organizations and individuals.

#### STATE AND LOCAL TRAINING REDUCTIONS

*Question.* Do you support a reduction in State and local training at Quantico?

*Answer.* No. The FBI's fiscal year 1995 budget would not reduce training for State and local law enforcement at the FBI Academy. It does, however, propose discontinuing the FBI's policy of reimbursing travel expenses of State and local trainees attending the FBI Academy. The proposed change would conform the FBI's pol-

icy with that of other Federal law enforcement training facilities, such as the Federal Law Enforcement Training Center in Glynco, Georgia.

*Question.* What impact will this proposed cut have on State and local attendance at the National Academy?

*Answer.* A past survey (1986) indicated nearly two-thirds of those State and local agencies scheduled to send personnel to the National Academy would not do so if required to pay their travel.

*Question.* Doesn't the interaction with State and local police departments help the FBI in establishing linkages for future cooperation?

*Answer.* Yes. The National Academy plays an important part in shaping closer partnerships among the FBI and State and local law enforcement agencies. One of the primary objectives of the National Academy is to promote effective cooperation among law enforcement agencies in the United States. The National Academy accomplishes this by preparing State and local law enforcement personnel for leadership roles within their departments. National Academy graduates serve as an excellent resource for fostering teamwork between Federal and State and local agencies involving multi-jurisdictional cases.

#### SHIFT FROM FINANCIAL INSTITUTION FRAUD TO HEALTH CARE

*Question.* Director Freeh, the Justice Department has submitted a reprogramming to the committee which proposes to shift 25 percent of the investigative resources in several Justice Department accounts, including the FBI, from investigations and prosecutions of FIF to HCF. Under this proposal, the FBI would reallocate 428 positions and \$38.7 million to HCF. As a member of the banking committee, I'm concerned that investigations of FIF don't receive short shrift. What is the reason for this proposal?

*Answer.* In response to a 1993 FIF/HCF survey of the FBI's 56 field offices, 32 field offices advised they were currently unable to reallocate FIF resources due to the continuing FIF crime problem. The remaining 24 field offices collectively advised that they could reallocate up to 125 FIF agents to other white-collar crime areas, mainly HCF. Further, the survey identified an estimated 185 additional agents would be needed to investigate currently unaddressed HCF matters. Unfortunately, the 125 FIF agents available for reallocation from FIF are not all located in field offices where there are needs for additional HCF resources. Therefore, not all of the 125 FIF agents can be directly reallocated to HCF without transfer of personnel.

The FBI survey results indicate that some FIF resources may be available to address HCF matters by the end of fiscal year 1994. This assessment is based on what appears to be a leveling off of the FBI's FIF total caseload. From the second quarter of fiscal year 1993 through January 1994, the monthly caseload generally has not changed by more than 100 cases, ranging from 10,000 to 10,100. However, failure cases, generally more labor intensive than other FIF cases, have begun to decline. Failure cases peaked at 758 in July of 1992 and declined to 594 by the end of January 1994. Accordingly, it is possible that resources could be made available to investigate HCF if failure cases continue to decline and major cases do not rise substantially.

*Question.* Have you considered requesting additional resources rather than shifting personnel and funds from Financial Institution investigations?

*Answer.* The FBI has considered requesting additional resources for the HCF Initiative. However, in light of current efforts to downsize the Federal workforce and the apparent lessening of the FIF caseload, the FBI is proposing to address the HCF initiative through the reallocation of existing resources before proposing additional staffing requirements. In fact, the President's fiscal year 1995 budget proposes a base-level realignment of 156 agent and 141 support positions to HCF.

*Question.* Will this reprogramming have a negative impact on future investigations into Financial Institution Fraud?

*Answer.* The FBI projects that the national reprogramming will be less than the proposed 25 percent level, as not all FBI field offices will be able to reallocate resources from FIF to HCF. Reallocation will depend on the severity of the HCF crime problem as compared to the FIF crime problem of the respective field office. If a field office determines that a reprogramming of FIF resources is necessary, discussions will be held with the United States Attorney to establish an agreed upon commitment of resources. The field office will then submit a communication to FBI Headquarters, requesting specific authority to reallocate the FIF resources to HCF. The request will state how the FIF crime problem would be adequately addressed after such a proposed reduction in FIF resources. Further, the field office will describe the significance of the HCF crime problem.

Upon receipt of the request to reallocate FIF resources to HCF matters, FBI Headquarters will compare the requesting field office's FIF and HCF crime problems to all other field offices. Among the factors to be considered are the following: (1) The need to reallocate the FIF resources from the requesting field office to another FBI field office with an expanding FIF crime problem; (2) the severity of the local field office's HCF crime problem as compared to the national HCF crime problem; (3) the need to reallocate the available FIF resources to another field office with a more significant HCF crime problem; and (4) the availability of funding to effect any required transfers.

If the request is justified, the field office will be notified of the approval. In addition, FBI Headquarters will make the appropriate quarterly notifications to Department of Justice, in compliance with Congressional reporting requirements specified in the Crime Control Act of 1990. Because of the above review process, the proposed reallocation would not negatively impact upon the FBI's FIF efforts.

#### ORGANIZED CRIME DRUG ENFORCEMENT PROGRAM

*Question.* The 1995 request for Organized Crime Drug Enforcement would decrease by \$12.5 million and 150 positions. Indeed, funding would be \$17.6 million below the level necessary to maintain base operations. The FBI and the DEA are both significant participants in this program. The FBI would lose 80 positions as part of this reduction, including 50 support positions and 30 agents. These reductions are in addition to the 861 positions that would be lost in the primary FBI account. What is the rationale for this reduction?

*Answer.* The rationale for the proposed reductions are believed to rest entirely on fiscal considerations. The President has made a commitment to reduce the Federal deficit by downsizing the Federal workforce and achieving savings in administrative costs. The proposed reductions in fiscal year 1995 represent the FBI's share of these deficit reduction initiatives as they affect the Organized Crime Drug Enforcement program.

*Question.* Can the President's recently announced violent crime initiative be implemented if this reduction is accepted by the Congress?

*Answer.* Yes. The President's recently announced violent crime initiative can be implemented.

*Question.* What is the relationship between the existing Organized Crime Drug Enforcement activities of the Justice Department and the new Violent Crime initiative? Will there be coordination between the two activities, or will they be separate?

*Answer.* Within the FBI, the Organized Crime Drug Enforcement activities and Violent Crime initiative are coordinated successfully by FBI field office management. Additionally, at FBI Headquarters, there is effective communication and coordination among the managers of both programs.

#### PROPOSED STAFFING REDUCTIONS

*Question.* Director Freeh, on Tuesday before the House Commerce-Justice-State Subcommittee, you stated that, "Crime in the United States is a disaster \* \* \*. It is a disaster of the first magnitude." The budget request for the FBI does not seem to reflect that urgency. My understanding is that \$177 million of the budget you sent to OMB was eliminated in the President's budget. In addition, you are being told to cut 861 positions. In total, the request of \$2.138 billion is \$27.9 million below the level needed to maintain base operations. Finally, there is no explicit request for funding FBI programs through the Crime Control Fund, although Senator Byrd and I successfully offered an amendment to the Senate Crime Bill to authorize up to \$250 million over five years for additional funding for the Agency.

If crime is such a national disaster, how can we justify a cut of 861 positions and \$27.9 million in base reductions for the FBI?

*Answer.* Of the \$2.249 billion budget request sent to OMB, we received \$2.138 billion in the President's budget; thereby establishing a cut of \$110 million. Although in this year we will maintain the number of FBI agents as in the previous year, we plan, on both the agency and departmental level, to vigorously increase efforts in abating violent crime. Within the FBI is an initiative to redirect 600 agents from administrative positions to the streets. From a departmental standpoint, the Department of Justice's 1995 budget request also includes \$2.4 billion in support of the Crime Bill. These funds will be used, in part, to put 100,000 new police officers on the streets, to help States track criminal histories, to implement border control and immigration reform strategies, to construct and lease additional corrections facilities, and to implement a series of programs to assuage juvenile gang violence. We at the FBI recognize the efficacy of a combined criminal enforcement effort, and we look forward to working with our criminal justice colleagues, on the Federal

agency level and the State and local levels, to carry out the President's anti-crime initiatives.

*Question.* Where will the cut of 861 positions come from? Realistically, can they all come from support staff?

*Answer.* The net reduction of 861 positions consists of 5 agent and 856 support positions. The net loss of agent positions is attributable to reductions proposed in the Organized Crime Drug Enforcement program. The net loss of 856 support positions (842 FTE) would affect both FBI field offices (- 341 FTE) and FBI Headquarters (- 501 FTE).

At this point, the FBI anticipates maintaining its funded agent complement. Indeed, the Administration specifically provided the FBI with funding in its fiscal year 1995, direct appropriation to maintain agent staffing at previous year levels. The FBI will make all attempts possible to ensure the reductions in agent staffing.

*Question.* What impact will the reduction in support staff have on agents in the field?

*Answer.* The loss of support workyears will require FBI Agents to assume routine investigative activities such as performing criminal arrest record and credit checks, taking complaints from the public, monitoring court-approved electronic surveillance, and conducting surveillance of fixed locations and suspects. Previously, the FBI had shifted many of these functions from agents to specially trained support employees as a cost saving move. Additionally, there will be fewer professional and clerical support personnel at FBI Headquarters to support field operations.

The restructuring of FBI Headquarters will also necessitate the hiring of some professional personnel to fill vacancies created by the redeployment of agents to investigative positions. For example, chemists, biologists, attorneys, and other professionals will have to be hired to maintain current levels of service to Federal, State, and local law enforcement by the FBI Laboratory and to staff the FBI's Legal Counsel Division. The proposed reduction of 842 support workyears in fiscal year 1995 may make it difficult to effect the planned restructuring of FBI Headquarters in an efficient manner and without an adverse impact upon operations.

#### MINIMUM MANDATORY SENTENCES

*Question.* A key provision of the Senate Crime Bill authorizes the Federal Government to build up to 10 regional prisons. States could incarcerate their prisoners in these regional prisons if they change State law to require that violent offenders serve at least 85 percent of their sentence. Isn't this a way to get at the problem of the early release of violent criminals?

*Answer.* Yes. Additional prison capacity is one way to accomplish that goal.

*Question.* Would you support such an approach? Do you believe it should be included in the final version of a crime bill?

*Answer.* As a matter of policy, it would not appear appropriate for the FBI to endorse specific legislation. However, as stated in my opening statement before the Subcommittee, dangerous offenders must not be released prematurely and allowed to repeat the crimes for which they have previously been convicted. Policy and laws needed to accomplish this goal should be promulgated through the legislative process and once established, the FBI will do its part to support such efforts.

#### NEW AGENT CLASSES

*Question.* The FBI normally loses at least 200 agents to attrition and retirement during a normal year. That number may even increase in the coming year, due to the age and retirement eligibility of many agents. However, your budget does not include funding for any new agent classes. Will you hold any new agent classes in 1995? How many classes, and how many new agents will be hired?

*Answer.* Yes. The FBI anticipates conducting seven classes to train 250 new agents in fiscal year 1995.

*Question.* What funds will be required to hold these classes and hire new agents? Where will these funds come from?

*Answer.* Applicant processing costs, training costs, as well as pay, benefits, and equipment/supply costs are required to train and employ each agent during his/her career with the FBI. The total additional cost to hire these 250 new agents includes \$28,000 per agent for firearms, laundry and meals costs during training and \$1,000 per agent for background investigations. This totals \$29,000 per agent, for a total of \$7,250,000 for applicant processing and training.

Funding to hire and train the 250 new agents anticipated in fiscal year 1995 will come from the FBI's base level training and applicant program funding.

**DRUG ENFORCEMENT ADMINISTRATION**

**STATEMENT OF THOMAS A. CONSTANTINE, ADMINISTRATOR**

**ACCOMPANIED BY:**

**STEPHEN H. GREENE, DEPUTY ADMINISTRATOR**

**DONALD P. QUINN, ASSISTANT ADMINISTRATOR FOR OPERATIONAL SUPPORT**

**STEPHEN R. COLGATE, ASSISTANT ATTORNEY GENERAL FOR ADMINISTRATION**

**MICHAEL J. ROPER, DEPUTY ASSISTANT ATTORNEY GENERAL, CONTROLLER**

**ADRIAN A. CURTIS, DIRECTOR, BUDGET STAFF**

**PREPARED STATEMENT**

Senator HOLLINGS. The subcommittee will now hear from the Drug Enforcement Administration, whose request for fiscal year 1995 is \$723,714,000, an increase of \$1.7 million above the amount appropriated for this year.

Appearing before our subcommittee is our new and distinguished Administrator of the DEA, Thomas A. Constantine, who comes after an illustrious career with the New York State Police. And that there should have given you a good experience in your efforts here to encourage cooperation with the many and varied law enforcement agencies.

Joining Administrator Constantine is Mr. Stephen H. Greene, the Deputy Administrator, and Donald P. Quinn, the Assistant Administrator for Operational Support.

We welcome you to the hearing, and we have your statement, sir. It will be included in the record in its entirety. And as I say, you can deliver it as you wish or highlight it as you wish.

[The statement follows:]

**STATEMENT OF THOMAS A. CONSTANTINE**

Mr. Chairman and Members of the Subcommittee: It is an honor to appear before you today in my first Congressional hearing since assuming the position of Administrator of the Drug Enforcement Administration. I feel that as we discuss DEA's fiscal year 1995 budget request, it is appropriate to talk to you today about our nation's drug problem, its relationship to violence, my concerns about the future of our nation's youth, and DEA's role in dealing with all of these situations.

Before I begin, I'd like to say a few words about what DEA is up against. As an organization of slightly more than 7,000 people—of which 3,400 are special agents—DEA faces a formidable challenge. Drug organizations, operating both domestically and internationally, use sophisticated communications equipment the Federal Government can only dream of purchasing. We are facing the reality that our technological capabilities may never equal those of the traffickers. Drug organizations have simply outgunned, outmanned and outspent their Federal competitors. This is clearly illustrated by the fact that a single drug organization, the Herrera group operating in New York, made an annual profit three times the size of DEA's entire worldwide budget.

While this is a sobering fact, I don't think we should be discouraged. Knowing that these are tight fiscal times and that our nation is confronting important issues, we need to spend our money wisely on effective programs. DEA is doing everything

possible to be one step ahead of the trafficking organizations and to anticipate shifts in priorities and trafficking patterns. We will continue to match wits with the most ruthless, innovative and resourceful criminals around the world.

Mr. Chairman, you and the other Members of the Subcommittee are aware of how serious our crime problem is. However, every once in a while we all need to be reminded of the continuing relationship between violent crime and drugs.

The rate of violent crime has increased 371 percent since 1960. It has increased nine times faster than the increases in population. In 1960, an average of 666 violent crimes were reported daily; by 1991, this daily number was over 5,200. According to the FBI's Unified Crime Report, 9,140 people were murdered in the United States in 1960; in 1992, almost 24,000 Americans were murdered. The murder rate per hundred thousand population almost doubled in that time period. Aggravated assaults are also way up: in 1960 there were just over 130,000 assaults in America; in 1992, there were 1.1 million. And another dramatic statistic: in 1960, a murder was committed every 58 minutes; in 1992, a murder occurs every 22 minutes.

After increasing significantly since 1960, homicide rates declined for all age groups in the early 1980's. Then, in 1985, it again increased, a jump attributable to the appearance of crack cocaine that year and the involvement of juveniles in the commission of violent crime. The explosive nature of the crack trade, and the physiological effects that crack has on the human body, resulted in an escalation of violence in our nation's urban areas and rural parts of our country.

The links between drugs and violent crime are clear. A recent study showed that 48 percent of all homicides are drug-related. National crime victimization surveys in 1989 and 1990 revealed that over 2 million crimes are committed by offenders under the influence of drugs or alcohol. This figure represents 35 percent of the total number of violent crimes recorded in those surveys.

While the effect of violent crime on all of us is a major concern, I am most worried about the impact that drugs and crime are having on our children. Increasingly, children are both the perpetrators and victims of violent crime. Juveniles and young adults are committing violent crimes in the United States at higher rates than ever before even though demographic studies indicate that teenagers are a smaller percentage of our population than at previous times. Crime and demographic studies anticipated that the violent crime rate would drop since there were fewer teenagers. It did not. Between 1985 and 1991, arrest rates for criminal homicide increased among 13 and 14 year old males by 140 percent, among 15 year old males by 217 percent, among 16 year old males by 158 percent, among 17 year old males by 121 percent and among 18 year old males by 113 percent. In short, since 1985, there has been a 24 percent increase in the homicide rate, and a 36 percent increase in overall violent crimes mainly because of the upsurge in violence among young boys. If you took 15-17 year old males out of the crime statistics, there would be only a 1 percent increase in the violent crime rate since 1987. With the continuing easy availability of drugs, and with demographic trends indicating that a larger teenage population is on the way, I am concerned that unless we take some dramatic steps, we will be facing five to ten more years of rising juvenile violent crime.

Teenagers are also the population group hardest hit by crime: even though they comprise only 14 percent of our population, teenagers are the victims in three of ten violent crimes. The firearm death rate among teenagers 15-19 increased 77 percent from 1985 to 1990. Homicide is the leading cause of death among black Americans aged 15 to 34. Over half of all violent crimes against teenagers ages 12-19 occur in school buildings, on school property or on the street. And five percent of American teens, without jobs and not in school, have no productive role in society.

When we were young, we did not have to worry about guns and gangs in our schools. But children today are living in a state of siege. Recent drug use and drug-attitude statistics are reason for deep concern as they indicate that after years of steady progress in reducing drug use among young people it is again up. For example, use of drugs other than marijuana among high school seniors increased between 1975 and 1981, and then decreased significantly every year until 1992. Drug use by seniors in high school increased by 4 percent between 1992 and 1993.

In 1993, significantly fewer students also felt that there is great risk associated with drug use. Even crack cocaine is not perceived as a great risk by some students. Last year, 42.9 percent of high school seniors had used an illicit drug at least once by the time they reached their senior year in high school.

The use of marijuana was up among 8th, 10th and 12th graders last year. So was the use of inhalants by eighth graders.

These facts are deeply disturbing, but I can assure you that the Drug Enforcement Administration is committed to addressing the violence and degradation of life that drug trafficking has spawned.

DEA is designated as the lead drug law enforcement agency in the nation, and as such has a major role to play in the identification and dismantling of drug trafficking organizations around the globe. For the past twenty years, DEA has contributed to the worldwide efforts to reduce drug trafficking and to separate traffickers from their ill-gotten gains. Currently, we have a presence in 50 countries and in all the major cities of the United States.

We cannot forget that most of the violent drug-related crimes which are committed in the United States have direct links back to the ruthless drug cartels which operate around the world. For every child in Chicago or Detroit or New York who is caught in the crossfire of rival gangs, a cartel leader grows rich off the misery of the inner-city. For every mother that has lost a child to drugs, another mother in Cali, Colombia gives a son over to the drug lords who run the cocaine trade. The cartels' profits create a great loss in America.

Who are these major drug traffickers we are battling every day? They are the heads of tightly controlled organizations capable of processing and transporting thousands of kilos of cocaine to the United States each year. They run multinational corporations with discipline and secrecy, laundering billions of dollars to conceal the source of their profits. They are ruthless drug lords who have franchises in every major city, operating in a structure of cells to prevent one element of the organization from knowing what the others are doing. They are the prototypes of organized crime in the 1990's, combining the business acumen of the Mafia and the cell structure of terrorist organizations. We should never overlook the fact that although these cartel operators portray themselves as businessmen, their only business is peddling death to Americans.

After studying the operations of the cocaine cartels for several years, DEA devised, in 1991, a strategy to target the vulnerabilities of these organizations. This approach is called our "Kingpin Strategy" which systematically identifies and seeks to disrupt all aspects of the cartels' operations. We have targeted 12 drug organizations operating around the world—eight cocaine and four heroin—which are responsible for 80 percent of the cocaine and most of the heroin entering the United States. The main goal of this strategy is to exploit the cartels' drug processing capabilities by reducing the flow of chemicals, disrupting their transportation and communications networks, and dismantling their financial infrastructure.

Through our top to bottom approach, we have been able to thwart one organization alone from shipping in over 56 metric tons of cocaine. Our actions have also resulted in the loss of \$70 million for another major trafficking organization.

Because of its global nature, and because intensive Title III wire intercepts of international and domestic communications are at the heart of this approach, the strategy is expensive. Title III's have proven to be our most effective tool for getting inside the inner workings of the cartels, but these require numerous personnel many of whom are capable linguists with security clearances.

DEA is also committed to dismantling the trafficking networks operating within our borders. These criminals have a direct impact on the lives of Americans in Omaha, Scranton, Charleston and Albany. They are responsible for the violence and killings in our own backyard. And while they may not have the sophistication and resources that the Colombian cartels have, they are just as important to us because they operate on the same streets our children take to school, and they live in the same communities as we do.

For years, we have been dealing with violent criminals who are involved in the drug trade, and we have an important role to play in our nation's current efforts to reduce violence on the streets of America. As Administrator of DEA, I have assured the Attorney General that we will work side by side with our partners from State and local law enforcement to address this violence. DEA has joined INS and the U.S. Marshals Service in a commitment to work with the U.S. Attorneys in each Federal judicial district to develop and implement a comprehensive investigative strategy targeting violent crime. DEA is fully committed to this policy and I have asked all of our Special Agents in Charge to meet with their Federal, State and local counterparts to assess the violent crime problem in their areas and to submit joint investigative plans by mid-April.

Our DEA field divisions are already working on violent crime through our domestic program, but I think we can and must do more. We are building on our successful State and local task force program which combines the jurisdictional expertise of our counterparts with the investigative expertise of Federal law enforcement. DEA operates 103 Task Forces which are composed of over 1,500 State and local officers.

Throughout the country, DEA is working with State and local enforcement agencies to eradicate marijuana and dismantle marijuana trafficking organizations, identify and eliminate heroin trafficking organizations in the United States, prevent the

diversion of licit drugs, arrest those trafficking in dangerous drugs, seize traffickers' assets, and help localities in High Intensity Drug Trafficking Areas address their specific drug trafficking problems.

We are also working to free public housing residents from the tyranny of the local traffickers who have been able to operate with impunity. And DEA's Demand Reduction program in our nineteen field divisions is working with school children, local police, parents and community organizations to empower communities to deal with the problems of drug abuse and trafficking.

In short, DEA is committed and able to positively impact on the quality of life in the United States by facing the tough challenge of dismantling drug networks which are the source of the drugs and violence which have eroded our communities. But I don't want to leave you with the impression that this will be easy, or that it will happen overnight.

DEA will continue to work with the flexibility and innovation that are the hallmarks of our organization, knowing full well that we must work within tight budget limits. For fiscal year 1995, DEA is requesting 5,315 positions (2,576 Special Agents), 5,388 workyears, and \$723,714,500 through its direct appropriation. In the Diversion Fee Account, which is funded through fees paid by registrants, DEA is requesting 588 positions (12 special agents), 584 workyears, and \$43,431,000.

In addition to the resources requested through direct appropriation and the diversion fee account, DEA is also requesting 1,000 positions (779 Special Agents), 987 FTE, and \$95,899,000 in the 1995 consolidated budget request for the Organized Crime and Drug Enforcement Task Force (OCDETF) program. OCDETF resources are contained in the Department of Justice Organized Crime Drug Enforcement appropriation and will be allocated to DEA on a reimbursable basis.

These requests contain no enhancements. There are decreases for administrative costs savings and locality pay absorption. These reductions will require DEA to assess ongoing programs and reprioritize enforcement initiatives. This will include realignment of Headquarters activities and reassignment of special agents currently performing headquarters responsibilities to field assignments. Less important programs will be eliminated and others scaled back, but DEA's essential programs will be maintained. In some cases, DEA will be required to internally reprogram funds in order to support priority programs.

I would like to thank the Committee for your ongoing support for DEA's programs, and I would be happy to answer any questions you might have.

#### OPENING STATEMENT

Mr. CONSTANTINE. Senator, first of all, it is an honor to be here. As you have said, I have only been on the job 3½ weeks, and I hope you will be patient with me. I inherited the opportunity to present the DEA budget. However, I think, rather than read the statement, I would just as soon highlight it, because some may be redundant with respect to Director Freeh's testimony.

#### LAW ENFORCEMENT FISCAL CONSTRAINTS

However, I think two things are worth mentioning. Prior to coming here, I did have a 34-year career in State and local law enforcement. A lot of that activity involved major crimes investigation—homicide, rapes, robberies, organized crime, and narcotics. And I also served in the tight State fiscal situation, in New York State, from 1988 until 1993, a difficult time. So, I think some of those things may equip me for my present position.

DEA, and I think all of law enforcement, as you will hear, is in a very difficult situation right now. DEA is a relatively small organization when you compare it to the problems that exist today; 7,000 total employees and approximately 3,400 agents.

What we are running into more now are these tremendous international drug trafficking organizations that, in all honesty, have more financial resources, equipment, and communications abilities

than any law enforcement agency in this country—and probably more than anybody in the world.

I will give you an example. One of the major investigations that was taken down by the Drug Enforcement Administration in 1991—and I was familiar with this case because many of the players in that investigation were members of the New York State Police assigned to the joint task force in New York City. The profit of that organization, which is tagged the Herrera organization, was three times larger than the DEA budget.

So, we are confronting a threat that is in many ways enormous. And we have to spend our money wisely. And we have to anticipate some shifts in trafficking because these are very, very astute people, who are able to adjust their operations to our strategies, it seems, very quickly.

#### INCREASED DRUG PROBLEMS

Senator HOLLINGS. Let me ask you this, since we are together. I remember as a young lawyer I was called—I was running down to the jail. I was the only fellow that would work on the weekend. And one fellow said, would you call this lawyer? He was a drug case. And I called the lawyer in New York. And he said, yes, we will put up his bond. I will fly down. It was a \$100,000 bond, which was big money back in the early fifties.

And we put up his bond and everything else like that. And I said, I want to talk to him and interview him if I am going to try this case, and find out anything. He said, you do not have to talk to him. Here is \$5,000. Just tell us when we are going to put in our plea, and I will have his wife—he has got a wife and one child—and we would like you to put in a plea for him.

And I did it. I said, man, this is a happy day. I do not have to know anything about the case. You could tell he was just a courier. But later when I became Governor, we did not have any drugs. We had a few coming through Charleston on shipping—couriers that would pick it up. But we did not have 35 years ago when Nelson Rockefeller and I were elected Governors, we did not have drug cases for my South Carolina Law Enforcement Division. We had, like you say, rapes, crime, homicide, safe crackers, and that kind of thing.

It is unbelievable today. Seventy percent of all crime in South Carolina is drug related now. It is all over. And I guess it is just overwhelming up there in New York.

Has that been your experience with the 30-some years you have had in it?

Mr. CONSTANTINE. Well, one of the things that—I was sitting here listening when Director Freeh and the questions that you and Senator Kerrey asked—I am afraid sometimes that not everybody recognizes just how bad it has become. Although I think over the last 6 months to 1 year, the American people are pretty smart and they recognize how much they have had to change their life.

I will give you an example. In New York State where I come from—and you are right, the drug problem is everywhere, and it creates a tremendous engine driving violence. In 1960, in that State, with the population not having changed a great deal since then—New York State is not like many of your States with popu-

lation growth—the murder rate went from 481 murders to 2,600, and the robberies from 7,000 to 120,000.

Nationwide, the violent crime rate has gone up nine times faster than the increase in population.

A lot of that, as the Senator mentioned, really, the sixties and the seventies were periods of great growth, supposedly demographic, based on the age of the baby boom population.

In 1982, 1983, and 1984, there were stabilizations and reductions in the violent crime rate. And then, in 1985, somebody invented crack cocaine, which people had really not heard of before, and two things happened. It had tremendous addictive properties. And then it became a drug available to very poor people because of the price at which it was sold on the streets of our cities.

And you are right, 75 percent of the crime and fully 50 percent of the murders are directly related to drugs. What we find is the police are more and more unable to solve the crimes because the crimes have increased nine times the size of the population. And law enforcement strength and capabilities have stayed about the same as they were in the 1960's.

#### JUVENILE VIOLENT CRIME

The problem that I see, and that I mentioned in my confirmation hearing, and I think it is worth noting for everybody, is that the greatest growth over the last 5 years is in 15-, 16-, and 17-year-old kids. The murder rate for 15-year-olds in this country since 1986 has gone up 250 percent.

Now, that is in the face of the fact that there is a relative—in demographic terms, there is a relatively small number of 15-, 16-, and 17-year-olds presently.

Two things—that figure is going to change by the year 2000. There is a phenomenon called the echo of the baby boom in which we are going to again have a big bulge of population going through America. A lot of them will be 15-, 16-, and 17-year-old kids.

Couple that with the most recent information that we are getting on drug abuse, where from roughly 1981 or 1982 up until probably 3 or 4 months ago—at least within the last year—there was a sharp drop in what we call casual drug use. Children, on self-reports, at certain age brackets, 8th, 10th, and 12th grade, which is a consistent figure even though it is a self-report, have now shown a fairly significant uptick in the last report.

Secretary Shalala just released a report last week that is showing significant increase in drug abuse and that people are losing their fear of drugs and the sanction against illegal drugs. And then we have the DAWN reports, which are hospital admission reports of narcotic-related incidents. Overdose incidents have gone up 9 percent on the last report.

Now, when you take a look at all of those figures coming together, I am not optimistic that this situation is going to improve. In fact, it has all the capacity to further deteriorate.

DEA, obviously, inherits a large role for Government in trying to develop a Federal strategy. They have been and are the lead agency in the Nation not only by designation by Government, but really that has been their business dating back to 1914 or 1917. It has been my experience in 3½ weeks at DEA that they have a lot of

talented and dedicated people. DEA operates in 50 countries throughout the world and in every major city of the United States.

#### KINGPIN STRATEGY

One of the unusual aspects now of the crack cocaine situation and the whole cocaine traffic is that it is different than the old heroin traffic, in that there is an absolute hierarchical structure that starts in foreign countries and operates in our country.

And just to explain it to you, 80 percent of the cocaine coming into the United States, is controlled by Colombia cartels. There are individuals in Cali who have set up organizations and dispatch Colombian nationals to the United States to operate their businesses within the United States. Some of our people have said that they have all of the old business acumen of the Mafia and all of the violence of terrorist organizations.

We have seen, and not only from my last 3½ weeks, but in my previous position in the New York State Police where we did similar investigations, individuals are sent to this country to work for those organizations. Some of them are specialists in how to order up and supply communications equipment for the operation. Some of them are responsible for providing rental cars. Some are providing safe houses for both money and narcotics.

Individuals often do not want to provide information, even upon arrest, because their relatives are not in this country. And their relatives would be in great jeopardy if they were to supply information.

Based on that, my predecessors developed the kingpin strategy, which really was what I call a major case investigation of the narcotics industry as it operates in the United States. The strategy has been successful in identifying all of the principals and leading to huge seizures of cocaine.

I just talked yesterday with the representative from New Mexico—and I was out briefly in Houston and San Antonio on Monday night and Tuesday morning. And while I was there, the DEA seized 5 tons of cocaine: 2½ tons out of a trailer in Las Cruces, NM; 2½ tons out of a house in Conroe, TX. And all of our information is this one group, strongly controlled from a foreign country, has made 12 such trips with about 5,000 pounds each time in the last 4 or 5 years.

A lot of this then becomes, at the State and local level, a violent crime problem because of the use of crack cocaine. When drugs were being used recreationally by the upper and middle class—which I could never understand, but it was happening—they recognized the dangers in the mid-eighties and were able to, in many ways, cease usage.

Unfortunately, the problem then wound up in the poorest communities in our country. And in those communities, they have the fewest options to be able to deal with such a social tragedy. That created a tremendous amount of violence.

And I suspect what you see in South Carolina—which I am now trying to help out and become more familiar with towns that I have driven through, like Orangeburg, which, to me, with Edisto Gardens and places like that, look like very comfortable small towns that have all of the nice things that a northerner associates with

a quiet life in a southern town—however, I would suspect that a lot of your narcotics traffickers are coming from the major cities, whether it is Atlanta or Charleston.

Senator HOLLINGS. Right.

Mr. CONSTANTINE. And they come into those communities. They exert a lot of violence. They get into turf battles with the local drug distribution outfits. And what you will wind up with is bodies everywhere in the street, and people are held hostage in their homes.

And I think that there is much more that can be done. I will not go into the litany of all of the things that the DEA is trying to do. One is the big international investigations. The second is there has to be a lot of work done domestically.

#### STATE AND LOCAL TASK FORCES

There are, as I think Senator Kerrey mentioned and you talked about, there are actual gangs in this country who are moving into communities that are ill-equipped to face the problem, and by the use of force or violence, are taking over that whole community. And I think DEA can play a major role there. We already have 103 task forces with 1,500 agents.

Coming from State and local government, I have always found the DEA, in our relationships in New York State, was extremely cooperative and virtually all that I learned or knew about narcotics I really learned from senior and experienced DEA agents and FBI agents.

And in New York State there are at least 100 State police personnel assigned to DEA offices to work on the problems throughout the State. There are similar such task forces throughout the country, and I know there are some in your State.

But we recognize these are tight times fiscally. I have been through this before. Some may question my intelligence. I took the superintendent's job at the State police after 4 or 5 years of affluence. And I was there about 6 months in the largest, most serious recession, which lasted for 5 years. As I left there, they had a surplus. And I am now in the Federal Government when they are in tough fiscal times.

So, I have looked at those types of problems previously. We, like the FBI, are aware of the fact that there is a significant loss over the last 2 or 3 years of numbers of personnel.

My philosophy has always been, in managing a law enforcement agency, that the last place that that impact should be felt is at the field agents on the street who are making the cases. As a result, we will be looking at where in headquarters in staff positions we can make cuts.

#### BUDGET REQUEST

I have to tell you, from my cursory review since I have been within the agency, the DEA is a lot like the Marine Corps. There is not a lot of fat there. Everybody is a rifleman. There are only 231 special agent positions in headquarters to start with. There have to be some agents to coordinate the major investigations and to provide some supervision and leadership. But I can assure you, wherever we can make cuts, if we have to make cuts, they are

going to be in staff or support positions. But I also have to be very honest with you, in that with the magnitude of the budget implications of the last 3 years, some of the cuts are going to be painful, and some are going to be into the muscle of the organization.

I do not flinch from those responsibilities. Those come with positions of leadership.

We are requesting this year a budget I think is about \$1 million over last year's budget of \$722,000. Obviously, we have absorbed increases for inflation and salaries.

We are also funded by the "Diversion control fee" account and the "OCDETF" account. And with that, I would be pleased to answer any questions you might have.

#### DIFFICULTIES IN INTERNATIONAL ENFORCEMENT

Senator HOLLINGS. Very good. You certainly know law enforcement, and that gives me heart because that is what we need at the DEA. I understand that you and the Director are good friends and have known each other, so we automatically get the coordination. And incidentally, Senator Domenici, I have had an opportunity to meet with Mr. Constantine at length, expressing my feeling that we ought to get out of a lot of foreign enforcement. We are going to continue to maintain intelligence operations in all these various countries, but we need to refocus some attention back to the domestic side of drug enforcement.

I was in Bolivia last winter and came away with my beliefs reinforced. I do not criticize the DEA. On the contrary, I compliment the personnel that we saw. They were very efficient and they were very competent. It was not anything wrong with the personnel, it was the policy itself of trying our best to eradicate cocaine. That is like Sisyphus trying to roll that rock back or whatever it is. We have got to get all of that.

Senator DOMENICI. I have that. Have you seen that in my office? I have Sisyphus with a big rock.

Senator HOLLINGS. You do?

Senator DOMENICI. Yes; and we are going to put on it "Hollings-Domenici pushing a rock."

#### STATE AND LOCAL TASK FORCES REDUCTION

Senator HOLLINGS. I thought that was my head. But, if we can take some of the DEA who were focused in South America and put them out on the street in this country, that is the wisest use of our resources. I still think with the limited resources we have it is the art of the possible. There are a lot of laws I would like to pass, and perhaps several of them I would like to repeal. But it is the art of the possible, and that is more or less, in the limited situation you have Mr. Constantine, what you are going to have to work with. And I see you have got a complete understanding.

But when you say that you are going through a reduction in State and local task forces of \$1.1 million and yet you talk so glowingly and enthusiastically about the importance of increasing that kind of State and local activity, I have to wonder if that budget was made up for you when you came on here just a few weeks ago, and

so you as a good soldier are living with the budget made up for you?

I will put it the other way around. We would be glad in this committee to go along with any amendments to this budget you would like to propose, because I would feel way better that you at least have that comfort of knowing it is your budget and it is our cuts that we made and not you coming up with a budget that you can only look at here for a couple of weeks and getting your feet on the ground and everything else of that kind.

If you want to change anything, let me know. What is your feel about that?

Mr. CONSTANTINE. Well, first of all the budget was prepared before I got here, and I have to honestly tell you every Saturday when I got home, and Sunday, in Schenectady, NY, I have been studying this budget in preparation for today. And the people on my staff can tell you the first weekend I came back I had great concerns about the cuts to State and local task forces.

Senator HOLLINGS. Right.

Mr. CONSTANTINE. Because I think DEA has done a great job in leadership there. State and local government needs as much help as it can get. And I hope that does not sound parochial from somebody who benefited from the task forces. But I think that is a major role for DEA to play.

I would ask your consideration if we could come back through whatever the Federal process is for an amendment or an adjustment. Obviously, that will mean some pain someplace else. However, I think those State and local task forces are extremely important and should be one of our highest priorities to maintain.

#### OFFICE CLOSINGS

Senator HOLLINGS. And then the downsizing at the State level. I understand there were rumored plans to close the DEA Greenville office, and only recently a DEA paper exercise recommended that you close the Florence office in the PeeDee.

Incidentally, up until recently, the largest cash crop in South Carolina was tobacco. It is now marijuana. The largest cash crop in my State is now marijuana. It is unforgivable. But will you check into that, because using the statistics provided down there by our U.S. attorney the DEA cases are on the rise in Florence. In 1992 the Florence office had 18 cases. It is up to 20 cases in 1993, and for the first 3 months of 1994, we have already had almost that many. So if you had to close the Florence office, it would not be because of a lack of need. The need is increasing in that PeeDee area and in the Greenville area too.

How much of the DEA's projected staffing reduction is a result of the downsizing effort, attrition, absorption of the 1994 pay raise or overhiring by your predecessor or a combination of both or all four or what?

Mr. CONSTANTINE. It is my understanding that it is a combination of both. In the Federal Government, which is unique to me, pay raises or locality raises were absorbed in the budgets of the agencies, and that was a new experience for me.

Second, it was my understanding that there were additional agents hired by previous administrations that had not been funded. I have the situation of inheriting at least both of those situations.

The end result, though, is that there is a total loss of approximately 415 personnel over the last 3 years, 271 agent positions. By September 30, 1994, we should be approximately 140 special agents over ceiling. Our best projection is that by the end of fiscal year 1995 we would be at the target that exists presently and that with the Federal buyout program, if necessary, may make it possible to do all these things without any layoffs or RIF's.

#### PRESCRIPTION REGISTRATION FEE

Senator HOLLINGS. On the matter of the increase in prescription registration fees to recover the full cost of the diversion program. Of course, the doctors are objecting to that increase, I think from \$60 over a 3-year period to \$210. Are you authorized to waive the registration fee under certain circumstance?

Mr. CONSTANTINE. I understand the whole issue of fee raising is a subject of litigation, I think by the American Medical Association. Presently, the only waivers that can be granted are to hospitals and some type of governmental entities, and not to individual doctors, as I understand.

Senator HOLLINGS. Well, I have got a clinic, for example, down at Pawleys Island. I have visited it. They are all volunteers, the staff, retired nurses, there are seven retired physicians who staff it, and they range in age from 73 to 86. It is a wonderful little operation. But since they are running it on their own on a voluntary basis, and then all of a sudden have to face these increased fees, I think you would agree if there is any way to waive it—look into that situation because we want to keep that clinic going. But you know how people are. They say wait a minute, I am working harder and losing money. You do not get the feel of a volunteer when you have to pay Washington like we have to tomorrow.

Mr. CONSTANTINE. I will look into that and get back to you, Senator.

[The information follows:]

#### WAIVER OF REGISTRATION FEES

The Comprehensive Drug Abuse Prevention and Control Act of 1970 (Public Law 91-513) (Controlled Substances Act) authorizes the Drug Enforcement Administration to enforce provisions of this Act as they apply to registered handlers of controlled substances. The purpose of the Diversion Control Program is to prevent, detect and investigate the diversion of controlled substances from legitimate channels, while at the same time ensuring an adequate and uninterrupted supply of controlled substances required to meet legitimate needs. In doing so, DEA registers nearly 900,000 drug handlers annually.

Pursuant to 21 C.F.R. 1307.03, "any person may apply for an exception to the application of any provision of parts 1301-1308, 1311, 1312, or 1316 of this chapter by filing a written request stating the reasons for such an exception. Requests shall be filed with the Administrator, Drug Enforcement Administration." Since the establishment of the Controlled Substances Act 24 years ago, requests for exceptions have been minimal.

It should be mentioned that providing such exceptions may adversely impact the planning and budgeting ability of the program since the program is funded directly from fees.

## MEXICAN BORDER

Senator HOLLINGS. Yes, sir; I would appreciate it.

On the matter of the Mexican border, that struck me because of the NAFTA. Now, you say good gosh, they confiscated 5.5 tons when you were down there near San Antonio and in the Las Cruces area, 5,000 pounds. What is going to be the score when they open up the border and you can go through and drive in big trucks, and there is no way to interdict? Because Senator Domenici and I have been through this thing for years now.

It was General Chapman who suggested, when he was head of the Marine Corps, that we take these old metal porous strips that you put down for a runway during the war for the planes to land and erect them in a vertical fashion along the 2,000 mile border. Just put a maginot line and a fence for 2,000 miles. We have had every suggestion in the Lord's world.

We live in the real world and we know it cannot be done. Even now, with just a few checkpoints, the highways have got to move. I have been down there at Tijuana, at San Diego, and with all of that traffic going through, or Juarez, you have got to keep it moving.

How are you going to cope with the impact of NAFTA? I do not see in your budget any additional assignment for it, and I do not know, if I was the Administrator in the next 10 minutes, whether I would make it or try to. Well, you say it is Sisyphus again or Canute. That flood of vehicular traffic coming through, how are you going to check it?

Mr. CONSTANTINE. Presently, we are aware of the fact that the California Highway Patrol, through the International Association of Chiefs of Police, has got a grant, a very substantial one, from the Federal Highway Administration, to look at the implications of NAFTA on commercial vehicle traffic, because there are a lot of other issues here.

We tightened up all the drivers license requirements for commercial operators in this country about 4 or 5 years ago. A uniform commercial drivers license.

So what we have asked now is that this be included, that we look at the possibility of transshipment of drugs. We know that the primary entry point to the United States presently is right through that Mexican border, often in passenger vehicles, often in commercial vehicles, often trailer homes, and those types of things moving through.

So we have assigned someone to work with the International Association of Chiefs of Police, all the State police down there on that Southwest border from Arizona and New Mexico and California, to be part of that grant to see what we can do for drug interdiction because a lot of the highway patrols and State police organizations have been extremely effective in traffic interdiction, stops, so we are going to address that through that NAFTA study.

Senator HOLLINGS. Well, I am afraid we study everything in Washington, but we never provide for anything. That is what disturbs me. But in any event, let me yield to my distinguished colleague here, Senator Domenici.

## BUREAU OF PRISONS REQUEST

Senator DOMENICI. Thank you, Mr. Chairman. Let me first for the record indicate why I was so late. We have a conflict today with the Energy and Natural Resources Committee, Mr. Chairman. They had before them the chief of personnel from the Department of the Interior with reference to oil and gas, diminished production, and increased regulation and the like, and as you suspect, that is a very big issue in New Mexico, and I had to be there.

Senator HOLLINGS. And we have cleared the record for you on that, and it is open with respect to Director Freeh of the FBI.

Senator DOMENICI. Well, I would submit some questions to Director Freeh, and I wonder if I might first ask if you would be disposed, Mr. Chairman, in the name of the subcommittee to make a couple of inquiries, one of the Bureau of Federal Prisons. I would like to know in the past 8 years how many prisoners are going to the Federal prisons that are there under mandatory minimum sentences.

Senator HOLLINGS. Good. Let us mark that down. Ms. Hawk will be glad to give us this.

Senator DOMENICI. And I would also like to have that broken down how many are drug related and how many are others. I am hearing from various defense people, defense counsels in New Mexico, that most of that mandatory is drugs and very little is violent crime and the like, and I would just like to make sure we know since we are going to be paying for all this on this subcommittee.

Senator HOLLINGS. Good.

[The information follows:]

## FEDERAL PRISONERS HELD UNDER MINIMUM-MANDATORY SENTENCES

Over 60 percent of BOP's sentenced inmates are incarcerated for drug related offense. Of this number, approximately 32 percent are low level drug offenders with no past conviction of a violent offense, no violence in the current offense, no aggravating roles, and have a category I criminal history score according to U.S. Sentencing Guidelines. Within this population, approximately two-thirds have mandatory minimum sentences.

Thus, within the present sentenced BOP institution and contract population of 85,172, approximately 51,103 are incarcerated for drug related offenses. Of that group, 32 percent or 16,353 are low level drug offenders, and two-thirds of that population or almost 10,792 have mandatory minimum sentences.

## EFFICACY OF MANDATORY MINIMUM SENTENCES

Senator DOMENICI. And I would like to ask the Department of Justice the same thing, so we do not have one saying the other has all the information. But what I really want to know is: We are being told minimum sentences work, we are being told they do not work. And one piece of evidence to me that they do not work that has been shared by defense lawyers is that it is only taking care of drug people on the Federal side. It has nothing to do with violent crimes or gangsters or other things, and I would just like to get a perspective on that.

Senator HOLLINGS. Very good.

[The information follows:]

## THE DEPARTMENT'S VIEW ON MANDATORY MINIMUM

The Administration believes that mandatory minimum sentences for certain drug trafficking offenses are an important law enforcement tool which should be maintained, and therefore supports retention of such penalties (and opposes legislative efforts that broadly repeals them). Those who are violent offenders, use firearms, and lead drug conspiracies should know that severe penalties, including appropriate mandatory penalties, will apply to their actions.

At the same time, we recognize that in particular cases involving non-violent offenders, mandatory minimum sentences are inappropriate. Accordingly, the Administration supports inclusion of a so-called "safety valve" or "carve out" provision such as that contained in Chairman Schumer's proposal and § 2404 of H.R. 3355 as passed by the Senate, or S. 1607. We believe that any of these proposals—which while differing in some respects share the same fundamental structure—would be sound improvement in Federal law, allowing us to target our valuable and limited resources to the incapacitation of the most serious offenders.

## AGENT REDUCTIONS

Senator DOMENICI. If I would have been here when we started this two-pronged hearing this morning I would have said this is a hearing on Federal cops, because we are hearing an awful lot about local cops and we are hearing a lot about trying to get more money so we can increase the number of local policemen in the so-called community law enforcement assistance—50,000 or 100,000 new policemen.

Frankly, I am not as enthused about that as I am concerned about the fact that the Federal cops, the money for them is being reduced and the number of personnel and new trainees are being reduced, not increased. I think our first responsibility ought to be to make the FBI and the DEA the best Federal law enforcement entities that we can make them. And frankly, I do not know that we can do with less. I actually think we ought to have more money in the DEA and the FBI. So I am not as sanguine about a \$1,700,000,000 or even more for the new local policemen for 3 years as I would be to build first the capacity of our Federal system to do its job right.

I want to make a second point, Mr. Chairman, and I think you are aware of this. When we go home and talk about law enforcement and who is getting arrested, who is going to jail, and what about three-time losers and what about all these violent criminals, we are hearing that what really needs help is the local judicial system, the district attorneys, local judges, the local jail system which seems to be incapable of handling its load in an expeditious and forthright manner. So I would even be more in favor of helping that part of the system before I put so much money into helping local police efforts.

Having said that, my opening remarks would have gone through the President's budget, which reduces the money for the FBI and the DEA. It provides no substantial new moneys for U.S. attorneys or the Federal courts for increased activities, and I clearly do not understand why there is such an inconsistency about taking better care of our own before we provide a city with 10 or 15 new policemen.

## JUVENILE VIOLENT CRIME

Now, can I ask you—or thank you for some evidence that is in your testimony. You have told us that violent crime among teen-

agers is up dramatically. Apprehensions are up dramatically. You have indicated among 15-year-old males there is a 217-percent increase; in 16-year-old males, 158 percent. That is only from 1985 to 1991. I am firmly convinced, Mr. Chairman, having visited more and more with the people in my State, that juvenile violent crime is the most significant criminal issue on the minds of parents, not because their children are all juvenile violent criminals, but they are frightened to death that their children are going to join that mob because it is growing so rapidly.

Could I ask you, based on your experience, if you had to state the most important things we ought to try to do with reference to this juvenile violent crime, what would you tell us?

Mr. CONSTANTINE. Some of the things are really not in my field of knowledge. Families and education, I think that is obvious to everybody, that there is a breakdown there. People who have that expertise will have to address that. Prevention programs: What I see is a juvenile justice system that was developed originally for a wayward boys home in Nebraska of kids who stole one car or played hooky at school that is now dealing with individuals who are cold-blooded killers and substantial dope peddlers.

As a result, that system has little or no deterrent value. If you think the adult system has broken down for capacity for handling violent criminals, when you look at the juvenile justice system and the secure detention facilities and the willingness to utilize them, even something as simple often as fingerprinting the dependent, because often we are dealing with people who have street nicknames and they are going to rob, rape, and sometimes kill. They will not often give you their real name.

The end result of that is, lacking fingerprinting we may not know that that individual had been arrested in the same city or another city frequently. And what we see is that the drug groups are more and more using them as distribution points at the street level. The juvenile justice system is not presently equipped to deal with that.

Senator HOLLINGS. The gentlemen speaks as a father of six. He is catching up with you.

Senator DOMENICI. How young is your youngest.

Mr. CONSTANTINE. Thirteen.

Senator DOMENICI. You might catch up with me. My youngest are 26, and I have eight. So it looks to me like that is it for me.

Mr. CONSTANTINE. I do not have any plans.

Senator STEVENS. Do not say that. [Laughter.]

#### CRIME BILL

Senator DOMENICI. Well, let me tell you that I think your answer was a very, very good answer. There may be some social things, some character building, some values, but actually the system has broken down.

Mr. Chairman, I want to also tell you that because I want to familiarize myself with what we want to fund in the new crime bill if we have any money. I know the House does not have a trust fund in their bill, so all this talk about all this new money for crime, it may be out the window.

Senator HOLLINGS. Yes.

Senator DOMENICI. Because if we do not have that trust fund that we set up it is gone. I am going to tell the Senators on the floor Monday or Tuesday of next week that if that is not in that bill—maybe we can go together—I do not know where we are going to get the money for the prisons and the rest.

Senator HOLLINGS. They ought to be sewn up now so they realize it.

#### DARE PROGRAM

Senator DOMENICI. Let me just tell you what I am doing now. I have met with all kinds of people involved in law enforcement and I am convinced that the policemen on the beat do not know everything, but they know an awful lot about the practical day-to-day things. And they tell me that they know who the crooks are.

They tell me in the public school system in my State, Mr. Chairman, where they are assigned to keep order, they know precisely who the drug peddlers are, who the youngsters are that are going to leave during the lunch break and perhaps bring guns back. They know precisely who belongs to gangs. And it just seems like somewhere between law enforcement and what we are trying to enforce that there is a big chasm and something has fallen down, and maybe it is the system, the whole judicial system.

I am going to close with one practical question to further point out that there are very big inconsistencies in the President's budget, very big ones. More community cops for local communities, but a program that is as good as the DARE Program—are you familiar with the DARE Program?

Mr. CONSTANTINE. Yes, sir; my daughter went through it.

Senator DOMENICI. I assume that from the standpoint of a few million dollars for a lot of impact, that DARE is about as good for young kids as anything we have got going, and I just want the record to reflect that the President zeros it out. That has gotten by without anybody saying very much, because the President is out there claiming he is putting all these cops on the beat, but the Byrne Grant Program, B-y-r-n-e, named after a law enforcement man, it is getting whacked, and it seemed to do more good.

Senator HOLLINGS. Let the record show that that has been reinstituted by Attorney General Reno. She put it back in. And, incidentally, Senator Rudman, your predecessor, and myself, we had hearings all over the State 3 years ago in South Carolina and we told them, candidly, we were out of money, but if we could hire one person—and we had the judges, the solicitors, the prison warden, the superintendent of education, the sheriffs, and everybody else there. And we said if we only had money for one person per county, who would it be? They said a DARE officer. It was very interesting.

Senator DOMENICI. A DARE officer.

Senator HOLLINGS. A DARE officer, that is right, that is what they said, and they all agreed that that had the far most effect, the greatest effect.

Senator DOMENICI. Mr. Chairman, I am pleased if the Attorney General reinstated that and asked for some budget changes. But I do understand that with reference to the Byrne program, for it to go as far down as DARE, there was not a request for its reinstatement. There was a request for other parts of Byrne.

Senator HOLLINGS. Well, we will make sure it includes it.

#### LAS CRUCES, NM, INVESTIGATION

Senator DOMENICI. They ought to make it easy for us by asking for the change so that we do not have to do that here.

The last question, earlier you announced that 2.5 tons of cocaine in—

Mr. CONSTANTINE. Las Cruces.

Senator DOMENICI. Las Cruces, NM.

Mr. CONSTANTINE. Yes, sir, on Monday.

Senator DOMENICI. Do you have any little bit of information for us on that?

Mr. CONSTANTINE. Well, the DEA in Houston and San Antonio have been working a series of surveillances, and based on the surveillances and information and movements of people, along with some information that came out of some of the offices in other parts of the country, they felt that there was a substantial movement in a motor home. The information that was provided corroborated information that the local police had in New Mexico. That vehicle was stopped. There were 2,500 pounds in that particular vehicle.

They then went back to the original locations, and in those stash houses in Conroe, TX, and I believe Houston, together there was another 2,500 pounds. And they felt, talking to the individuals involved, that this was a regular route over the border from Mexico, and there probably had been as many 25,000 to 30,000 pounds given the number of previous trips.

Senator DOMENICI. What is the street value of 2.5 tons of that stuff?

Mr. CONSTANTINE. Well, if you broke it down into crack cocaine you would have to have one of those supercomputers to figure it out, and I just could not do it. It would be astronomical, the cost. Just in kilo weight value selling presently it is about \$78 million, and that is in wholesale first cut.

Senator DOMENICI. Thank you, Mr. Chairman.

Senator HOLLINGS. Senator Stevens, you missed the financial director from the FBI.

Senator STEVENS. She was in Alaska for many years and, I am sorry, I just wrote her a note.

Senator HOLLINGS. Do you know her?

Senator STEVENS. I know Burdie very well. She did a great job in Alaska.

Senator HOLLINGS. Senator Stevens.

#### DRUG REHABILITATION

Senator STEVENS. I am here for just one question, Mr. Administrator, and that is I do not think we are doing enough to tell people out there that if they use drugs, there is a punishment downstream. I hear people in the private sector say they hired so and so, and that they are a little worried about the fact that they had had a history of drug use but, you know, it is all rehabilitation.

Am I wrong? Is the rehabilitation side more important than establishing a firm marker that people who use drugs will not be al-

lowed to hold high positions in Government, or should not be allowed to hold high positions in industry? If we take an engineer on a railroad, he has to take a test every once in a while, I understand a spot check. If you use any kind of drugs, it all shows up, out. Truck driver the same way, airplane pilot the same way, and then we do not seem to have the same sanctions for the rest of the national community. Should we?

Mr. CONSTANTINE. Well, I am not an expert on rehabilitation, but I have always taken strong positions against the use of drugs. And at my confirmation hearing I told a story. I grew up in a neighborhood in the city of Buffalo where the largest heroin peddler in the city of Buffalo lived across the street from me as a young boy, and played with his daughter out in the street.

And another boy that played with us, Kenny McCarder, I still recall his name—when I eventually went to work in narcotics when I was in my mid-twenties, I was able to be involved in arresting that individual, and he was a major heroin peddler at that point in time. And then I found out that this Kenny McCarder had died of a heroin overdose, and I always had this irony of what I had seen as a child and how it had turned out.

So I have had a passion against people using drugs and a passion against violent crime. I do not think the world should be this way today. I think the prophets of the 1960's who told us that these drugs can be experimented with without pain or penalty have disappeared from the scene someplace, and now we have inherited this tremendously huge social problem.

So you are talking to somebody who has had strong, strong positions against it. I have worked now in two agencies where random drug testing is mandatory, and in my previous agency any positive test resulted in an immediate separation from service. So those are my philosophies. I wish they were everybody's philosophies.

This problem will not be solved until everybody is willing to bite the bullet for the next 5 or 10 years and to take tough stands. You were not here. I think Senator Kerrey brought it up. If we think that this present way that we are living is tolerable, then there is no problem. I do not think it is tolerable; I think it is a disaster. And until somebody is willing to say we have got to take some dramatic steps to redress the problem, we will be stuck with what we have today.

#### DISCLOSURE OF DRUG USE

Senator STEVENS. Well, I am prepared to introduce a change in the rule that requires a person seeking a job that requires Senate confirmation to disclose the use of drugs. I want to put on Form 57, if that is still the form we use for Federal employment, that statement under oath, whether the person has used drugs in the past, and at least have the employing officer make a judgment whether it was an experimental thing in a person's youth and it has never become a habit, or whether it really became a habit at any time in their life. I do not think we have enough penalty there in society to stop this at the present time. I think we have got to erect some barriers.

Senator HOLLINGS. And I will probably support you on it. If you would yield. Law enforcement has got to know, also, that it is our

failure to have a competitive trade policy. The census figures that came out at the end of last year, showed that the age group, 18 to 24 years of age in the United States of America cannot find a job or cannot find a job outside of poverty; 73 percent of that age group cannot find that job.

Yet, next month, we'll all be giving roaring graduation speeches and tell the students that the future belongs to them. Yet, they will walk out the door and find there is no future and they cannot get a job. We have lost 1 million textile jobs in the last 10 years through a lack of competitive trade policy, and a lot of these other jobs in all these other disciplines.

So it is not just a question of the punishment not being enough, but it is rolling the dice. If I get caught, I will get a warmer place and a TV to watch, you know what I mean?

Senator DOMENICI. Or nothing.

Senator HOLLINGS. Or nothing. Or nothing. Get probation if they are young.

Senator STEVENS. We are grateful to you for what you do.

Senator HOLLINGS. I am grateful to you. If we are closing, I will give you some hope.

Oh, Senator Sasser, let me yield to the distinguished chairman. He is usually busy running our budget to see we are in balance.

#### RURAL DRUG CRIMES

Senator SASSER. Thank you, Mr. Chairman.

Mr. Administrator, in my State of Tennessee, we sometimes feel that we are not receiving the focus of attention from Federal agencies that have responsibility for dealing with drugs, that we would like to have. I find in my State that over the past just 2 or 3 years, in some areas just in the past year, that drugs coming into rural areas have become a serious problem, and we are seeing an increase in rural crime out in the country like we have never seen before.

We get the impression that as we tighten up on drugs coming into Florida or coming in from some coastal States, it results in a tremendous amount of overflying and landing at rural airports in States like Tennessee. These are really airstrips. Not airports. They close down at night. The drug plane lands there at 2 a.m., off loads the stuff, they put it in cars, and haul it out of there.

What is the DEA doing to try to—first are you aware—I expect you are—of what is happening in rural areas, the increase in criminality associated with drugs, the increase in drug usage? And if you are aware of it, what is the DEA doing to try to cut that off and deal with it?

Mr. CONSTANTINE. Senator, what you are talking about in your home State of Tennessee is every single State in the Union. And what was formerly an urban problem which people thought was an issue only to be confined to cities is in every town, village, and county in this country. And you can see it if you drive around. You are going to see the bars on the windows and the grates on the doors, that people are scared stiff.

And a lot of the dope peddlers that you have got probably dealing in Tennessee I would be willing to bet are people coming out of Nashville or Knoxville or maybe even farther away in Memphis,

selling drugs in the community, getting involved in violent interactions with local groups who might have also been trying to sell drugs. It is just—it is like the genie's out of the bottle type of thing. And I do not know how many agents there are in Tennessee. I would be glad to check for you in some of the rural areas.

Senator SASSER. Would you do that, please, and let me know?

Mr. CONSTANTINE. Usually what they do in rural areas like that, they join together with the Tennessee Department of Public Safety and various sheriff's offices which are very strong. Some of your sheriff's departments have been very effective on drug interdiction as they move through the highways from Texas on through.

Senator SASSER. That is true. We have had about 10 or 15 sheriffs, Mr. Chairman, go to the penitentiary. The temptation of these drug planes coming into these rural counties and the magnitude of the money they offer these sheriffs are just irresistible to them. Formerly honorable incorruptible people are corrupted by that, and I will bet you we have had 15 sheriffs go to the penitentiary in the last 5 or 6 years down there over drugs.

Excuse me, go ahead.

Mr. CONSTANTINE. My able staff just pointed out to me that there are four offices in Tennessee, a total of 19 DEA personnel, but they are in task forces with 34 people and are funded for about \$4 million. They have shared \$4 million in assets with State and local law enforcement due to seizures, but I will try to tell you where those task forces are.

Senator SASSER. I would be interested in getting some information on that.

Mr. CONSTANTINE. I will get that for you, sir.

[The information follows:]

#### DEA STAFFING IN THE STATE OF TENNESSEE

The following table displays DEA's authorized staffing levels and State and local task force operations in the State of Tennessee.

Office	DEA staffing			Police officers
	Agent	Other staff	Total DEA	
Knoxville:				
Resident office .....	4	2	5	.....
Provisional task force .....	1	1	2	7
Johnson City post of duty .....	2	.....	2	.....
Chattanooga post of duty/provisional task force .....	2	.....	.....	4
Memphis:				
Resident office .....	2	1	3	.....
Task force .....	4	1	5	13
Nashville:				
Resident office .....	5	8	13	.....
Task force .....	4	1	5	10

#### NARCOTICS CHECK IN SOUTH CAROLINA

Senator SASSER. We have a serious problem, and it is getting worse in rural areas. We have got to figure out—come up with some plan to try to deal with it.

Thank you.

Thank you, Mr. Chairman.

Senator HOLLINGS. Good. Thank you, Senator, and thank you, Mr. Administrator.

What happened—let me give you hope. We have got a Sheriff Young. He is a black sheriff in Fairfield County. I just traveled all the counties. And I do not want you to tell this out because it will ruin the operation that occurs from time to time. He does not keep it out there, but on I-77 he puts a sign and it says "Warning, narcotics check 2 miles ahead." And in 1-half a mile, man, the brakes screech and there is a little road that goes down to the right. And he has got the two highway patrol cars there. He has got a TV and one of these infrareds for the night and everything else. He is picking up Mercedes, bankers from New York, all kinds of folks.

Senator DOMENICI. You are kidding.

Senator HOLLINGS. Oh, no. He has got a lot out there. But he is in business. We do not want to mess it up or spread it around.

But then he will take it down for about 1 week or 10 days or something, and then on a weekend when things are not going too strong in Fairfield County, he will put, "Warning, narcotics check 2 miles," right at that same place, and, man, they are just picking them up. They are getting the cars and everything else. That fellow is rich, or his department is, from this operation.

Mr. CONSTANTINE. Your secret is safe with me. [Laughter.]

#### ADDITIONAL COMMITTEE QUESTIONS

Senator HOLLINGS. Well, we certainly appreciate your appearance here, and we are 100 percent with you. If there is any way we can help, let us know. We thank you very much.

[The following questions were not asked at the hearing, but were submitted to the Administration for response subsequent to the hearing:]

#### QUESTIONS SUBMITTED BY SENATOR ERNEST F. HOLLINGS

##### DEA DOWNSIZING PLANNED FOR SOUTH CAROLINA

*Question.* Last month, several Federal judges that hear cases in the upstate area of South Carolina contacted me concerned about rumored plans to close the DEA Greenville Office.

Apparently, prior to your coming on-board, DEA officials undertook a "paper" exercise whereby all DEA regional offices were asked to assess the caseloads in their field offices and recommend offices that could be downsized or closed due to the reduced drug investigative activity. I believe the target agent reduction in the field was 6 percent.

Now, my staff has been told that the "paper" exercise—or initial recommendation made to you is to close our Florence Office and shift the two DEA agents currently on-board there to the Greenville Office—thus increasing the complement in Greenville by two—while not changing South Carolina's overall on-board strength at all.

I'm pleased your "paper" exercise does not propose significant reductions in agent staffing in South Carolina, but I'm concerned with the impact the shift in focus will have on drug enforcement in the immediate Florence area.

Before steps are taken to downsize or close a DEA Post-of-Duty, does the DEA consult with the FBI and U.S. Attorney with which it may be working, to determine the impact on overall drug enforcement in the affected area?

*Answer.* Before an office is closed, DEA Special Agents in Charge, or their representatives, contact other Federal, State, and local law enforcement officials and the U.S. Attorney's Office to appraise them of DEA's intention to reduce or close an office. In addition, the impact of the potential reduction or closure on DEA as a whole, and the drug trafficking problem, is assessed at both the field and Headquarters levels before any decision is finalized.

*Question.* What impact would the potential closing of the Florence Post-of-Duty have on the State and local provisional task force operating out of that office?

*Answer.* I will be reviewing the recommendations of field managers to restructure DEA's field operations. There is no predisposition to close the Florence Post-of-Duty or reduce operations elsewhere in South Carolina.

*Question.* Would the provisional task force continue to operate and just coordinate with the agents posted in Greenville but assigned to cover the Florence area?

*Answer.* Because the Florence Post-of-Duty will remain open at this time, the provisional task force will be unaffected.

#### DEA AGENT REDUCTIONS

*Question.* I have heard several of my colleagues comment on the floor of the Senate that this Administration is cutting DEA agent staffing. Unfortunately, projected personnel ceiling level for 1994 and 1995 are being used in comparison to actual on-board strength in 1992—which inflates the number considerably (-311).

First, let me say that this Administration's first budget was 1994. The DEA began 1994 with an on-board strength of 3,639 agents. As of April 1, 1994, on-board DEA agent strength is 3,579—a reduction of 60 agents.

However, as part of its overall government downsizing effort, this Administration has set personnel ceiling levels that may result in further DEA agent staffing reductions.

As Administrator of the DEA, do you have the option of meeting your target personnel ceiling levels by reducing positions other than agents?

*Answer.* I have the option of meeting personnel ceiling levels by reducing positions other than agents. However, the fewer agent positions we reduce, the more support positions we will have to eliminate. This is because agent positions are between 2 and 2.5 times more expensive than non-agent positions.

*Question.* How much of your projected staffing reduction is a result of the downsizing effort, attrition, absorption of the 1994 pay raise, over hiring by your predecessor, or a combination of all four?

*Answer.* The current staffing reduction facing DEA is the result of all four factors you mentioned. As you know, DEA has participated in the Administration's downsizing efforts, reflected in the 1993, 1994, and 1995 budgets. Because of slow attrition rates, however, coupled with the over hiring of 40 agents in 1992 and position reductions caused by other funding shortfalls, DEA is presently carrying an overage of 173 agents.

*Question.* If this subcommittee were able to find the funding to increase your budget above the request and target this funding for new DEA agents, to what extent is DEA bound by the personnel ceiling established by the OMB?

*Answer.* The Department is bound by the personnel ceiling established by the OMB. Although the Attorney General has some latitude to adjust personnel ceilings within the total provided by OMB, any increases to DEA's authorized personnel ceilings would have to be offset by a decrease elsewhere in the Department.

*Question.* Have these personnel ceilings been complicated by the recently enacted buy-out?

*Answer.* DEA's personnel ceilings have been not complicated by the recently enacted buyout legislation. The buyout legislation will assist agencies in meeting the Office of Management and Budget's full-time equivalent (FTE) targets.

*Question.* Have you had any discussion with the Attorney General regarding exempting law enforcement from these government-wide employment ceilings?

*Answer.* I have discussed with the Attorney General the issue of exempting law enforcement from governmentwide employment ceilings, and these discussions are on-going.

#### DIVERSION CONTROL FEES

*Question.* Two years ago, this committee included language in its appropriations bill directing the DEA to increase prescription registration fees to a level sufficient to recover the full cost of operating the DEA's Diversion Control Program.

While the DEA prescription registration fee has not increased in nine years—and the cost of enforcement of the Controlled Substances Act certainly has—I have heard from many doctors in my state objecting to this increase. (From \$60 for a three year period to \$210 for a three-year period.)

Most doctors and their practices can certainly handle this increase and I stand by our decision to increase the fee to permit enforcement of the program.

However, one case has been brought to my attention that I would like you to personally review. It involves a free-clinic on Pawleys Island that is staffed by retired nurses, volunteers, and seven retired physicians who range from age 73 to 86. Is

the Administrator of the DEA authorized to waive the registration fee under certain circumstances? If not, would the ability to do so require a legislative change or rule making change?

Answer. The Comprehensive Drug Abuse Prevention and Control Act of 1970 (Public Law 91-513) (Controlled Substances Act) authorizes the Drug Enforcement Administration to enforce provisions of this Act as they apply to registered handlers of controlled substances. The purpose of the Diversion Control Program is to prevent, detect and investigate the diversion of controlled substances from legitimate channels, while at the same time ensuring an adequate and uninterrupted supply of controlled substances required to meet legitimate needs. In doing so, DEA registers nearly 900,000 drug handlers annually.

Pursuant to 21 C.F.R. 1307.03, "any person may apply for an exception to the application of any provision of parts 1301-1308, 1311, 1312, or 1316 of this chapter by filing a written request stating the reasons for such an exception.

Requests shall be filed with the Administrator, Drug Enforcement Administration." Since the establishment of the Controlled Substances Act 24 years ago, requests for exceptions have been minimal.

It should be mentioned that providing such exceptions may adversely impact the planning and budgeting ability of the program, since the program is funded directly from fees.

#### DIVERSION AGENT POSITIONS FOR SOUTH CAROLINA

*Question.* Now that we have taken the heat for raising DEA prescription registration fees—where does the DEA stand with regard to filling the 60 new diversion agent positions provided in the 1994 Appropriations Bill?

Answer. In the 1994 Appropriations Act, DEA received 60 new positions in its Diversion Control Fee account budget (21 diversion investigators, 10 special agent, and 29 support positions). DEA has begun allocating these positions, including three investigator and one support positions to the Columbia, South Carolina Resident Office. However, DEA is currently undergoing a study to determine whether the diversion investigator (GS-1810) series should be converted to the special agent (GS-1811) series. Once this has been determined DEA will begin recruiting to fill these positions.

*Question.* Am I correct that these new positions are not subject to personnel staffing ceiling because they are fee funded?

Answer. Thus far, fee funded positions have not been subject to the government-wide downsizing staffing ceiling. The Diversion Control Fee account has an authorized ceiling of 588 positions (12 special agents, 387 diversion investigators and 189 support positions). This authorization is as enacted in the 1994 appropriation.

*Question.* We have had a Diversion Control Group approved for Columbia, South Carolina since January 1992 but the positions were never filled. Our U.S. Attorney Pete Strom is aggressively pursuing health care fraud in South Carolina and needs the assistance of these Diversion Control agents. Health care fraud is estimated to be costing this country upwards of \$7 billion and we need to move forward on our commitment to beef up enforcement—the doctors are paying the increased fees, DEA has the revenues, now we need to move forward swiftly and fill these positions.

When can we expect these new positions to be filled and assigned to South Carolina?

Answer. Pending the outcome of the aforementioned study, DEA will begin recruiting for either the GS-1811 or the GS-1810 series. In addition, one support position will be allocated from the new positions, and two additional existing investigator positions will be transferred from the Atlanta Division.

#### KINGPIN STRATEGY

*Question.* Your budget submission describes the DEA's primary mission as one designed to "reduce the amount of drugs in the United States by pressuring, disrupting, and eventually destroying the operations of the international drug trafficking syndicates that control the bulk of the global drug trade." Specifically, I believe you refer to this as your Kingpin Strategy in which you target the 12 Kingpin organizations that are collectively responsible for most of the cocaine and heroin entering the U.S. What impact will the recently enacted law in Colombia, permitting drug kingpins to plea bargain for significantly reduced sentences, have on the future success if this strategy?

Senator John Kerry wrote an excellent editorial which appeared in the Washington Post on April 6, 1994 regarding the Colombian Government's policy shift in drug enforcement that I would like to submit for the hearing record.

First the Colombian's amend their constitution and prohibit extradition, and now they have enacted a law to permit plea agreements with drug kingpins.

I would have to agree with my colleague from Massachusetts that such action by the Colombian Government is a clear threat to the DEA's Kingpin Strategy and wonder if the DEA should rethink this strategy and possibly refocus resources domestically. Do you have any comments on this? How much are you spending on the Kingpin Strategy?

**Answer.** DEA believes that circumstances arise in Colombia which prevent effective enforcement activities against the targeted kingpin organizations within the country, but the Kingpin Strategy will continue to remain effective in disrupting and dismantling their operations worldwide. The Strategy focuses on regional U.S. Government and international operational initiatives and coordinated enforcement efforts exploiting identified Kingpin vulnerabilities—leadership, production, transportation, distribution, communications, and finances.

**Leadership.**—Although the targeted Kingpins themselves reside in Colombia, the leadership of their major supporting organizations, which provide coca products, transportation, money laundering, and U.S. distribution, are located outside Colombia and remain vulnerable to U.S. Government and cooperating host nation enforcement action.

**Production.**—Almost all coca products and production laboratories used to produce cocaine base and an increasing number of cocaine HCL laboratories are located in Peru and Bolivia. Therefore, targeting of cocaine production would continue to be effective contributions to the overall strategy. Current efforts toward controlling illicit chemicals used for cocaine production (by the United States and other cooperating countries) would remain a means to disrupt production.

**Transportation.**—General aviation aircraft used by the Kingpins to transport money to source countries and coca products from those countries to Colombia are vital to their operations. Through continued regional efforts to enhance detection, monitoring and apprehension of light aircraft in Peru and Bolivia, Kingpin operations will be seriously disrupted. Interdiction of maritime, air, and overland smuggling through the transit zone must continue, as well as interdiction efforts along transportation routes within the U.S. (Note: A multiton seizure executed in the transit zone could equate to 300 to 400 U.S. domestic cases throughout multiple jurisdictions.)

**Communications.**—This is an extremely important Kingpin vulnerability which must be exploited within the U.S., the transit zone, and source countries. Intelligence gained from communications intercepts is most effective in producing evidence for prosecution of U.S. domestic and overseas-based Kingpin supporting organizations.

**Finances.**—We have already proven how effective international cooperative financial investigations are in the disrupting of Kingpin businesses. Kingpin organizations will have to continue to invest overseas to make maximum use of their profits, and they will remain vulnerable to cooperative international investigations.

Under the current reported surrender scenarios, the surrender of the Cali Cartel Kingpins would not have a significant long-term impact on cocaine trafficking. The Cali Cartel has violated previous promises made to the Government of Colombia (GOC) to suspend drug trafficking operations. The Rodriguez-Orejuela brothers and other Cali Kingpins are probably confident that they will be able to control their drug organizations after their surrender. They undoubtedly know that prison has not been a deterrent to the Ochoa brothers' drug operations.

Furthermore, Colombia's new Criminal Procedure Code makes it more likely that Cali Kingpins will serve a short, if any, prison sentence. Under the new law, a defendant can be sentenced to house arrest in lieu of prison. In short, the Cali Kingpins, after receiving a short or no prison sentence, may be expected to declare their retirement from drug business, but will continue their trafficking operations through surrogates.

DEA is concerned regarding the long-term impact of drug trafficking on the Colombian Nation. The vast amounts of drug money that flows into Colombia, estimated at about U.S. \$7 billion per year, are making it possible for the Cali Cartel to gain increased economic, political, and social power and influence the country. DEA is concerned that this drug-generated wealth may translate into such trafficker power and influence that Colombia will be transformed into the world's first "narco-democracy."

The serious problems outlined above notwithstanding, it is fitting to recall the Colombia has done more than any other country in the Andean region to attack international drug trafficking. Accordingly, the United States Government must not weaken in its firm commitment to work with the thousands of brave men and

women fighting the drug cartels in Colombia regardless of potential political outcomes.

It is important to note that the Kingpin Strategy has already made significant contributions domestically. The Strategy specifically targets the major distribution cells within the United States. This important element of the Strategy has resulted in numerous arrest, seizures, and prosecutions of Kingpin Cartel members domestically. A significant amount of DEA's resources are already focused in this area and, in fact, DEA has used additional resource enhancements from special Department of Justice funding, i.e., Assets Forfeiture Fund, Super Surplus.

#### MARIJUANA ERADICATION

*Question.* I note no change in your budget request for domestic marijuana eradication efforts. What amount of your base is committed to domestic marijuana eradication efforts? Do you anticipate a decline in your support of State efforts in this regard?

*Answer.* DEA's 1994 base level for the Domestic Cannabis Eradication/Suppression Program (DCE/SP) is \$5 million. Prior to 1993, DEA's base amount for this program was \$10 million. Conference language in DEA's 1993 appropriation required that all State and local overtime be paid from the Bureau of Justice Assistance (BJA). At that time, DEA estimated that 50 percent of the DCE/SP funding was dedicated to overtime payments for State and local officers. Therefore, \$5 million was reduced from DEA's base. Recent experience has shown, however, that overtime payments actually account for only approximately 30 percent of the total DCE/SP. This figure fluctuates each year. Consequently, the reimbursable agreement between DEA and BJA allowed DEA to bill for some nonovertime DCE/SP expenses.

There may be a slight decline in the current level of support to the States, since total State and local overtime resources will be reduced from \$16,000,000 to \$14,000,000 and transferred from BJA to the Assets Forfeiture Fund in 1995.

*Question.* Looking at statistics on marijuana eradication efforts in South Carolina, it appears that total 1993 plant seizures are down considerably from 1992. (Down from 46,042 in 1992 to 19,296 in 1993.) In addition, indoor seizures are down from 50 in 1992 to 19 in 1993. Are these statistics an indication that marijuana cultivation is on the decline in South Carolina? Where does South Carolina rank nationally in terms of domestic marijuana cultivation? I know the DEA used to have a top ten list where they focused most of their eradication resources.

*Answer.* The eradication statistics are not an indication that marijuana cultivation is on the decline in South Carolina. In fact, I have been advised that the quality of marijuana grown in South Carolina has increased significantly.

There are several reasons for the drop in eradication statistics in South Carolina. First, 1992 was a very exceptional year for marijuana eradication in South Carolina. Growers in South Carolina realized that DEA, and State and local officials, with air support provided by the National Guard and the Civil Air Patrol, were looking for plots of marijuana growth. In response, the growers reduced the size of their plots to avoid detection from the air. Also, growers moved more of their crops indoors to avoid detection. In essence the growers did not reduce the amount of marijuana grown in 1993, they added smaller and less detectable plots.

Another major reason for the decline was that in 1993, South Carolina experienced a drought during the marijuana growing season. However, the primary reason that the statistics are down is because DEA received much less air support from the National Guard and the Civil Air Patrol. Budget restraints have forced these organizations to cut their flying time. Much of this came at the expense of the eradication efforts in South Carolina and other States in 1993.

South Carolina ranks 30th among the 50 participating States in overall cannabis eradication.

#### HELICOPTER FOR HAWAII

*Question.* Our 1993 Appropriations Bill included \$2.5 million for the procurement of a replacement helicopter for the DEA Marijuana Eradication Program in Hawaii. It is now the third quarter of the following fiscal year—1994—Has the replacement helicopter been delivered to Hawaii yet?

*Answer.* DEA recently acquired a twin-engine helicopter for the marijuana eradication program in Hawaii. We are in the process of contracting for the retrofitting of the helicopter and expect it to be delivered to Hawaii by the end of 1994. In the meantime, DEA has transferred a single-engine helicopter to Hawaii to provide support on a limited basis.

## DEA SNOWCAP PROGRAM

*Question.* Please provide FTE levels for "Operation SNOWCAP" by country.

*Answer.* DEA personnel assigned to Operation SNOWCAP/CADENCE are sent on temporary duty assignment (TDY), from both DEA Headquarters and the agency's domestic field divisions, to specified Latin American destinations. At present, DEA TDY assignments to Operation SNOWCAP/CADENCE are allotted as follows:

	Positions
Colombia .....	4
Bolivia .....	12
Peru .....	12
Guatemala .....	12
<b>Total .....</b>	<b>40</b>

*NOTE.*—Of these 40 TDY positions, 9 positions (including 3 medics, 3 communications specialists, and 3 team leaders) are permanently assigned to DEA Headquarters, and 31 positions are special agents permanently assigned to various DEA field divisions. All of these individuals are on 90-day rotational assignments to Operation SNOWCAP/CADENCE and none are permanently assigned to DEA offices in Latin America.

*Question.* Please provide the DEA FTE that are in training for SNOWCAP or in transit to and from permanent assignment.

*Answer.* DEA's Drug Suppression Section (OFS) currently has 24 special agent volunteers from domestic field divisions attending Spanish Language Training Courses. None of these special agents are in transit to or from a permanent assignment.

*Question.* What are the support costs for the SNOWCAP Program (costs of the program less personnel compensation)?

*Answer.*

## Operation SNOWCAP/CADENCE Program operating costs: 1993

Operating Funds .....	\$4,492,000
PE/PI Funds .....	481,000
Spanish Language Training .....	935,000
Alliance Airwing Support .....	1,780,000
DOD 1004 Support .....	1,052,000
<b>Total .....</b>	<b>8,740,000</b>

*Question.* What is the total cost of DEA personnel stationed in Latin America by country? Include all costs—personnel compensation allowances, FAAS charges, Non-FAAS space and support costs, etc.

*Answer.*

## DEA PERSONNEL COSTS IN LATIN AMERICA: 1993

[Dollars in thousands]

Country	No. of personnel	Cost <sup>1</sup>
Argentina .....	7	\$1,530
Belize .....	2	500
Bolivia .....	45	10,200
Brazil .....	8	1,871
Chile .....	3	426
Colombia .....	43	7,663
Costa Rica .....	6	939
Ecuador .....	8	1,373
El Salvador .....	3	546
Guatemala .....	8	2,115
Honduras .....	5	637
Mexico .....	56	8,276
Netherlands Antilles .....	3	502
Panama .....	8	1,288
Paraguay .....	3	414
Peru .....	14	3,142

## DEA PERSONNEL COSTS IN LATIN AMERICA: 1993—Continued

(Dollars in thousands)

Country	No. of personnel	Cost <sup>1</sup>
Uruguay .....	2	305
Venezuela .....	10	1,769
Total .....	234	43,496

<sup>1</sup> Items identified in the cost column totals include: payroll, permanent change of station, leased space, leasehold improvement, vehicle/aircraft purchase, communication, equipment, headquarter's program operations, and foreign allowance.

**Question.** Why do SNOWCAP teams report to headquarters rather than a DEA Country Attache?

**Answer.** While deployed to foreign countries, all DEA Drug Suppression Teams report to the respective DEA Country Attache. The DEA Headquarters Drug Suppression Section (OFS) maintains general program oversight and provides program support.

## QUESTIONS SUBMITTED BY SENATOR J. ROBERT KERREY

## DEA STATE AND LOCAL TASK FORCES

**Question.** DEA participates in multi-jurisdictional task forces across Nebraska. These task forces have been successful in promoting cooperation between the DEA and local law enforcement to fight drug crime. The eight task forces in Nebraska encompass 81 of Nebraska's 93 counties or 94.68 percent of the State's population. How does the DEA measure success with regard to the multi-jurisdictional task forces? What results have been achieved?

**Answer.** Rather than participating in formal task forces in Nebraska, DEA operates a cooperative interdiction program involving numerous State police or highway patrol organizations. Operation Pipeline was initiated to incorporate uniformed highway patrol officers into DEA's domestic interdiction efforts via the identification and arrest of large-scale drug traffickers who use interstate highways to transport drugs across the country.

Using experienced patrol officers as instructors, DEA trained 7,332 officers in 1993 alone in the detection and apprehension of drug suspects. Nebraska has only recently become an active participant in drug interdiction as a result of Operation Pipeline training. Interstate 80 has since been identified as one of the most active drug trafficking routes between the source of drugs in California and the consumers in New York.

All of the information from highway interdictions and controlled deliveries is entered into the drug intelligence database at the El Paso Intelligence Center (EPIC). Police officers across the country have access to this information which aids in the coordination of drug investigations within and across State lines.

Based on information provided by EPIC, the State of Nebraska has increased its number of highway interdictions from 27 in 1992 to 79 in 1993. Seizures of marijuana increased from 474 kilograms in 1992 to 3,215 kilograms in 1993; cocaine from 272 kilograms in 1992 to 887 kilograms in 1993; and dangerous drugs from 227 dosage units in 1992 to 510 dosage units in 1993.

In addition to the Pipeline Program, DEA supports the multi-jurisdictional drug task forces in the State of Nebraska. However, due to personnel limitations, DEA participates specially in the Metropolitan Task Force in Omaha and the Lincoln task force.

DEA participates in the Drug Enforcement Narcotic Team (DENT) run by the U.S. Attorney's office in Omaha and also participates in Organized Crime Drug Enforcement Task Force (OCDETF) cases throughout the State of Nebraska.

**Question.** In 1993, one multi-jurisdictional task force, the Northeast Nebraska Drug Enforcement Program (NEDEP), did not apply for Federal funding because they were unable to obtain the required 25 percent new cash match. NEDEP continues to operate but in a more limited capacity. Other task forces have also had difficulty in obtaining the required matching funds. The Nebraska State Patrol has assisted several task forces in meeting the required match by providing \$3,000 to \$13,000 to those task forces needing assistance. NEDEP required more than the maximum (\$13,000) amount the State Patrol could provide. How will 1995 cuts in

State and local task force funding provided in the DEA budget affect the continued viability of these task forces?

Answer. The DEA's State and Local Task Force Program does not include funding for the State of Nebraska. The Byrne grant program, administered by the Office of Justice Programs, provides resources for these types of multi-jurisdictional task forces. Funding for these task forces will remain at the 1994 levels in the amended 1995 request.

#### ALLOCATION OF DEA'S DRUG ENFORCEMENT RESOURCES

*Question.* Given that the DEA is faced with both small-scale drug offenders and larger criminal drug organizations, how are enforcement resources allocated between these two groups?

Answer. DEA focuses primarily on the larger criminal organizations as they are the suppliers to the small-scale offenders; therefore, DEA dedicates the majority of its investigative resources to investigating the large organizations. However, DEA still commits many resources to smaller-scale investigations through its State and Local Task Force Program, as experience has shown that these investigations often lead to larger criminal organizations.

#### DEA DRUG INVESTIGATION TRAINING

*Question.* Prior to the availability of the Federal funds, Nebraska law enforcement personnel received minimal training in the drug area. With the availability of Federal funds an instructor was hired to develop, implement, and evaluate curriculum for basic drug investigation. The DEA also conducts specialized training. What has the effect of training been on apprehension of drug offenders? Does the DEA expect the current level of training support to continue through 1995?

Answer. In 1993, DEA conducted seven State and local law enforcement training courses in the State of Nebraska for a total of 307 law enforcement officers. In 1994, DEA has thus far completed a total of two State and local training courses in Nebraska for 130 law enforcement officers. These classes include Two-Week Basic Drug Enforcement courses, a Drug Identification course, a Highway Interdiction course, Clandestine Laboratory Certification courses, and a DEA Profile/Drug Trend course. This training should have a significant impact on the apprehension of criminal drug offenders in Nebraska, as law enforcement personnel apply the skills and techniques advanced within these training seminars.

In order to meet the administrative cost savings goals established to achieve deficit reduction, funding provided by DEA for State and local training seminars has been reduced the past two years. DEA will probably complete a total of four State and local training courses in 1994, three courses less than that completed in 1993.

DEA must continue to pursue cost reductions in 1995. However, I am committed to fully support State and local law enforcement interests. Every effort will be made to ensure that resources provided in this area remain stable in the years to come.

#### QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

##### DEA-ORGANIZED CRIME DRUG ENFORCEMENT PROGRAM

*Question.* A separate appropriations account provides funding to a variety of law enforcement agencies and bureaus, including agencies in the Treasury Department, for Organized Crime Drug Enforcement activities. In 1994 the Congress provided \$382.4 million and 4,201 positions for this appropriations account.

The 1995 request for Organized Crime Drug Enforcement would decrease by \$12.5 million and 150 positions. Indeed, funding would be \$17.6 million below the level necessary to maintain base operations.

The FBI and the DEA are both significant participants in this program. The FBI would lose 22 positions as part of this reduction, including 12 support positions and 10 agents. These reductions are in addition to the reductions of on-board agents that would be lost in the primary DEA account. What is the rationale for this reduction? Can the President's recently announced violent crime initiative be implemented if this reduction is accepted by the Congress? What is the relationship between the existing organized crime drug enforcement activities of the Justice Department and the new Violent Crime Initiative? Will there be coordination between the two activities, or will they be separate?

Answer. The reductions in the Organized Crime Drug Enforcement Task Force (OCDETF) Program are a part of the President's deficit reduction plan.

DEA initiates 75 percent of all OCDETF cases and participates in 85 percent of the cases under the auspices of this program. With fewer resources, including spe-

cial agents and funding, there is always the possibility that fewer OCDETF cases will be made.

DEA will continue to offer its best cases to the OCDETF Program—if these cases involve violent criminal activity, they will also be forwarded.

More than 20 percent of OCDETF cases involve some violent criminal activity; an additional 30 percent of OCDETF cases are prosecuting defendants known to be involved in violent activities historically.

The OCDETF Program will be addressing the violent crime initiative—coordination has already started within the Justice Department. The U.S. Attorneys in many areas have begun to document the number of special agent workhours dedicated to violent crime by agency.

#### DEA AGENTS AT HEADQUARTERS AND IN ADMINISTRATIVE POSTS

*Question.* The Federal Bureau of Investigation is implementing a plan to shift 600 agents from administrative positions into investigative roles. Three hundred agents would come from headquarters and 300 from non-investigative positions in the field.

I understand the Drug Enforcement Administration has 231 agents at headquarters in various capacities. Are you looking at a similar shift in personnel at the Drug Enforcement Administration?

*Answer.* Yes, I am reviewing a number of options that will place a stronger emphasis on field investigations at the expense of Headquarters staffing. For example, as part of DEA's downsizing efforts, I am reviewing a proposal that requires a ten percent across-the-board reduction of Headquarters positions, compared to only a six percent reduction in DEA's field components. Electing to take this larger percentage reduction at Headquarters would allow DEA to both meet the existing mandated reduction of positions and limit the impact of the reductions on field operations.

Please note that the number of special agent personnel that could be transferred is small compared to the FBI. Of the 231 special agents assigned to Headquarters, approximately 150 special agents (65 percent) are managers, experts who provide policy guidance, and program coordinators who provide direct support to investigations in the field. In addition, DEA has very few agents in field offices assigned to perform noninvestigative functions.

#### DEA'S KINGPIN STRATEGY

*Question.* One of the major drug control programs at the Drug Enforcement Administration is the so-called "Kingpin Strategy" in which the DEA targets large international drug cartels. How does the strategy work? What organizations are targeted, and why?

*Answer.* The Kingpin Strategy was designed to disrupt and dismantle the trafficking organizations that operate in the three cocaine source countries by apprehending the organizations' leadership and attacking their operations. Once the kingpin and his organization are identified, the Strategy then focuses on the kingpins' vulnerabilities—their need to communicate, their need for precursor chemicals, and their need to move large amounts of money.

A kingpin is defined as a specific head of an international drug trafficking organization, or part of a drug trafficking consortium, in a source country that is responsible for directing all phases of unlawful production, transportation, and wholesale distribution of bulk quantities of cocaine and/or directing the financial operations. To qualify as a kingpin, the individual's role in the organization should be so involved in directing some or all of the aspects of that organization's cocaine trafficking that the neutralization of the kingpin and his leadership will significantly impact on the cocaine traffic in the United States.

DEA has applied the Kingpin Strategy to heroin kingpins also. To date, DEA has eight cocaine kingpins and four heroin kingpins targeted.

*Question.* According to your budget, you are cutting 93 permanent positions from the DEA and shifting the resources associated with those positions for the Kingpin Strategy. What are the funds associated with this shift in resources, and how will they be used? Are these support positions that are being cut? What impact will this have on DEA operations?

*Answer.* The most significant vulnerability of the kingpin organizations is their need to communicate. DEA has found that the most effective tool to penetrate their communications structure is the intensive use of Title III wire intercepts. DEA must contract for linguist support to maintain the intercepts; yet, we do not have the funding to sustain the level of intercept operations that have proven so successful. Because this aggressive intercept program has become the most effective weapon in penetrating the kingpin organizations, DEA will reallocate in 1995 \$4 million real-

ized from the reduction of 93 support positions so that it may continue its Title III operations.

This reduction will have no immediate effect on DEA enforcement operations as these position cuts will be realized through attrition. However, the eventual loss of these personnel will slow, if not restrict, DEA's ability to provide support to DEA operations.

#### DEA STAFFING

*Question.* According to the budget, the DEA will be reduced by 10 agent positions from 1994 to 1995. However, it is my understanding that in terms of agents on-board, as opposed to those authorized, the Drug Enforcement Administration has 178 agents more than the 1994 personnel ceiling. That means that by the end of 1995, the DEA intends to take a total of 188 agents off the streets.

What is the reason the DEA has 178 agents over its FTE level?

*Answer.* There are a variety of reasons DEA's on-board level for special agents is 178 over its authorized level. In anticipation of receiving position enhancements in 1993, DEA hired 40 special agents over its authorized level in the latter part of 1992. In addition, in 1993 DEA received only 22 agent positions, which was more than offset by reductions of 163 agent positions. Additional reductions in 1994 total 98 agent positions.

Compounding this problem, attrition has been at an all-time low. Only 127 special agents left during that 18-month period in 1993 and 1994.

*Question.* Do you intend to reduce these 178 agents to the authorized level by then end of 1994?

*Answer.* Projected attrition for the remainder of 1994 is estimated at 38 agents. Because DEA will not be conducting a reduction-in-force in 1994, DEA will not be within authorized agent ceiling levels by the end of the fiscal year.

*Question.* What impact will this reduction have on the ability of the DEA to combat the drug problem?

*Answer.* I am committed to maintaining DEA's field agent strength to the fullest extent possible. DEA will conduct its downsizing activities in ways that minimize the impact of field enforcement capabilities. DEA will continue to combat drug trafficking at the highest level. We will also focus on reducing violent drug-related crime, continuing our close relationship with our Federal, State and local law enforcement counterparts.

*Question.* Does DEA intend to close field offices as part of this effort?

*Answer.* DEA must continually evaluate the efficiency and effectiveness of all of its offices. As a result of this on-going evaluation, coupled with the downsizing plans, some smaller resident offices and posts of duty (offices with only 2 to 3 agent personnel) may have to be closed. Every attempt will be made to minimize office closings.

However, in those areas where DEA offices will be reduced, DEA will continue to maintain an enforcement presence. In addition, DEA will continue its critical liaison with other Federal, State, and local law enforcement organizations.

*Question.* What would be the cost of retaining these 188 agents in 1995?

*Answer.* The cost to retain 178 agent positions over our authorized level in 1995 would be \$26.5 million. To retain the additional 10 OCDETF agents reduced in 1995, an additional \$1.5 million would be needed.

#### SUBCOMMITTEE RECESS

Senator HOLLINGS. The subcommittee will be in recess until April 21—I think it is a Thursday—with the Secretary of State. Thank you.

[Whereupon, at 11:36 a.m., Thursday, April 14, the subcommittee was recessed, to reconvene at 10 a.m., Thursday, April 21.]

**DEPARTMENTS OF COMMERCE, JUSTICE, AND  
STATE, THE JUDICIARY, AND RELATED  
AGENCIES APPROPRIATIONS FOR FISCAL  
YEAR 1995**

**THURSDAY, APRIL 21, 1994**

**U.S. SENATE,  
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,  
Washington, DC.**

The subcommittee met at 10 a.m., in room SR-253, Russell Senate Office Building, Hon. Ernest F. Hollings (chairman) presiding.  
Present: Senators Hollings and Domenici.

**DEPARTMENT OF STATE**

**SECRETARY OF STATE**

**STATEMENT OF HON. WARREN CHRISTOPHER, SECRETARY OF STATE**

**OPENING STATEMENT OF HON. ERNEST F. HOLLINGS**

Senator HOLLINGS. The subcommittee will come to order.

Today the subcommittee will hear from our distinguished Secretary of State, Warren Christopher, regarding the fiscal year 1995 request for the Department of State and related organizations.

For fiscal year 1995, the administration has requested \$4.307 billion; \$2.790 billion is for operations, maintenance and facilities of the Department of State itself, the balance being for related organizations like the United Nations.

Mr. Secretary, we are pleased to have you here today.

This is a hearing on your fiscal year 1995 budget, though I'm sure we will discuss world events as well. But, I think it is important for us all to realize that one cannot review the State Department's budget in isolation. The State Department's mission and operations are intertwined with and shaped by world events.

These budget amounts are not just numbers on a page. As I've traveled to our American Embassies and posts, it is important that we do not lose sight of the fact that the Department of State is made up of dedicated men and women who every day represent this country abroad. They often live and work in dangerous locations. They truly are the best and the brightest.

Everyone who visits Washington knows about the wall at the Vietnam Memorial. But few probably know that when entering the State Department Building at Foggy Bottom, inscribed on the walls are the names of Foreign Service officers who have given their lives for their country. The tragic events last week in Iraq, will require

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another name to be added to that wall—Barbara L. Schell. She was helping provide humanitarian relief to the Kurds and she was riding in one of those Blackhawk helicopters. Barbara Schell also was one of those brave Americans who was taken hostage in Tehran in 1979, and who you, Mr. Secretary, helped free in 1980. I want to recognize her service to this country and express our condolences to her family. It should remind us of the risks that all these dedicated State Department officers endure in service to the United States.

Mr. Secretary, I want to try to retain as much time as we can for questions. I know other members will be coming along. So, we would be delighted to hear from you at this time.

#### GENERAL STATEMENT

Secretary CHRISTOPHER. Mr. Chairman, Senator Domenici, it is a pleasure to be here today, as always. I look forward to a productive discussion.

Senator HOLLINGS. Incidentally, your statement in its entirety will be included in the record, and you can deliver it or highlight it as you wish.

Secretary CHRISTOPHER. Thank you. I have shortened it considerably for presentation here, Mr. Chairman, so that I can maintain ample time for questions and answers.

As you have said, I am here to outline the fiscal year 1995 international affairs budget and to highlight the priorities and objectives that we advance in this budget request.

#### UPDATE ON BOSNIA

First, I want to report to you briefly on the situation in Bosnia. The Serbs have once again exhibited contempt for the world community, and an unwillingness to cooperate in achieving a peace settlement. For days, they have been shelling a city crowded with civilians, even after its defenses crumbled.

This is a setback for the momentum we have achieved in recent weeks. Commander Marcovic offered Sarajevo an ultimatum, a peace agreement between the Bosnians and the Croats. Nevertheless, it is important to be clear about what our objectives remain to be.

We must encourage the parties in Bosnia to settle their differences at the negotiating table. As President Clinton made clear yesterday, we have got to encourage the Serbs to negotiate by ensuring that they will pay a heavy price for continued aggression.

The latest Serb conduct requires a firm response. The President has put forward three immediate initiatives. First, we are proposing to our NATO allies that we adapt the approach that was successfully applied around Sarajevo to the other U.N. designated safe areas in Bosnia, including Gorazde.

As you know, air power itself cannot stop all Serb aggression. But it can act as a deterrent to the indiscriminate shelling of the civilian areas, just as it has in Sarajevo, and it can impose heavy penalties on violators.

Second, the President's initiative calls for us to redouble our efforts to impose tough sanctions on Serbia, and to ensure that they are enforced as strictly as possible.

Third, we will step up our humanitarian efforts in Bosnia. The United States will work with the United Nations to provide assistance to the beleaguered people in Gorazde.

We are taking these steps because the United States has an important strategic interest and important humanitarian interests in Bosnia. We have a strategic interest in preventing a broader European conflict. We have an interest in maintaining NATO as a credible force for peace in the post-cold war Europe. We have an interest in stemming the flow of refugees, and bringing the vast tragedy to an end.

Ultimately, a negotiated settlement among the parties is the only way this conflict can properly end. The agreement we forged between the Bosnian Moslems and the Croats in Bosnia has already erased the Bosnia battle lines. It points the way to a lighter settlement—one that we urgently seek.

Let me add, Mr. Chairman, that we will support the authorization of additional U.N. peacekeepers to secure the humanitarian effort and to consolidate the Bosnia-Croatian peace in Bosnia.

As the President said yesterday, the imperative now is not only to address the latest Serb transgressions, but to renew the momentum for peace. We will be addressing our initiatives with our NATO allies tomorrow in Brussels, as well as consulting actively and regularly with the Russians.

We hope we can come together on a common approach to end the conflict and bring peace to the former Yugoslavia.

#### BUDGET PRIORITIES IN FISCAL YEAR 1995

Let me now turn, Mr. Chairman, to the President's request for fiscal year 1995, which is truly our first post-cold war international affairs budget.

This budget meets the challenges of the post-cold war era by supporting the six strategic priorities that I have identified as central to our administration's foreign policy.

First, it allows us to strengthen our economic security, which President Clinton has identified as a very high international affairs priority.

Second, it provides support for reform in Russia and the other New Independent States.

Third, it enables us to sustain transatlantic security and prosperity.

Fourth, it advances our interest in the Asia Pacific area.

Fifth, it promotes peace in the Middle East.

And, sixth, it brings global issues, such as nonproliferation, human rights, population, and the environment, into the mainstream of American foreign policy.

Democracy is a powerful tool for advancement of these priorities and for ensuring a strong and secure America. I firmly believe that preventive diplomacy and peacemaking are cost effective. They save money and, even more important, they save lives.

Mr. Chairman, as you know, much of our budget is funded by other Appropriations subcommittees. So, naturally, today, I will emphasize the budget category that this subcommittee funds, although I will mention others briefly.

## PROMOTING U.S. PROSPERITY

The first budget category is promoting U.S. prosperity. I have instructed our missions abroad to attach the highest priority to advancing the interests of American exporters, investors, workers, and farmers. These efforts make a difference for American businesses every day. These efforts could not be possible without the steady support that this subcommittee has provided.

In this respect, Mr. Chairman, let me stress the vital role played by the U.S. and Foreign Commercial Service. I want to assure you that our officers overseas are working more closely than ever with the FCS, the Foreign Commercial Service, to advance our common goals.

## PROMOTING DEMOCRACY

The second category, promoting democracy, reflects our ideals and reinforces our interests. The exchange of ideas is a necessary condition for the development of democratic institutions around the world. Hence, our accompanying request for USIA so as to permit extensive streamlining and consolidation of international broadcasting.

## FUNDING FOR NATIONAL ENDOWMENT FOR DEMOCRACY

Funding for the National Endowment for Democracy is also vital. Its activities are designed to strengthen institutions—institutions that encourage pluralism, that strengthen democratic governance, civic education, human rights, and respect for the rule of law.

In this regard, Mr. Chairman, let me say how hopeful we are and grateful we are about the prospect for the democratic transition in South Africa, where the National Endowment for Democracy has supported voter education, conflict education, conflict resolution, and leadership training.

We are naturally very pleased by Tuesday's agreement which secured a Inkatha's participation in the election and provides the prospect of a less-violent election season. Now we want to work together to help South Africa build new democratic institutions.

## PROMOTION OF PEACE

The largest share of this budget request is to promote peace—more than 80 percent of it for maintaining and building peace in the Middle East. Although extremists are bent on sabotaging the peace process, that process, nevertheless, is moving forward, despite all the violence in the Middle East.

When the bilateral talks resume here early in May, I hope the parties will come ready to make some hard decisions that have to be made in order to move the peace process forward. The best way to insulate the peace process and to isolate the extremists is to change realities on the ground, so that the people in the area, people at the grassroots, can see tangible improvements in their own lives.

The actions of extremists, whether in Hebron or in Afula, are designed not just to kill individuals, but to kill the peace process itself. We are all determined to prevent this from happening.

## U.N. PEACEKEEPING CONCERNS

We have also requested, as you said, Mr. Chairman, funds for U.N. peacekeeping. We will make careful judgments about when to support peacekeeping operations and when to participate in them. In making such judgments, we will be asking a new set of tough questions about the scope, mission duration, availability of resources, and the degree of risk.

We are developing criteria to determine whether or not existing peacekeeping missions merit reauthorization. We see U.N. peacekeeping as a tool to defuse crises and to prevent breaches of peace from threatening our interests and from further sapping our resources.

Of course, we always reserve the right to act unilaterally or through an alliance such as NATO. But when a U.N. operation best serves our interest, we want to ensure that it works effectively. U.N. peacekeeping missions sometimes achieve important goals at costs that are smaller than if we had intervened or had done it alone.

It is important to remember that fewer than 1,000 of the 70,000 peacekeepers around the world are American forces. The total costs that Americans bear is 30 percent. And we will do all we can to reduce that figure to 25 percent by 1996.

The cost of peacekeeping, of course, is a continuing major concern of the Congress, as well as for our administration. We are working to raise efficiency and to cut costs. But I do believe, Mr. Chairman and Senator, that we must fulfill our obligations under the U.N. Charter by paying our dues. We expect our peacekeeping arrears in fiscal year 1994 to exceed \$1 billion.

As you know, the House and Senate conferees to the State authorization bill agreed to authorize the administration's fiscal year 1994 supplemental request of \$670 million for peacekeeping, subject to certain important conditions. We need your help to solve this funding problem.

We are determined to make peacekeeping more effective and accountable. Our case for reform is stronger when our bills are paid, and undermined when our bills are not paid. We want to work with you, and with the subcommittee. We will seek your advice and support on peacekeeping funding, as well as the underlying policy issues.

## NONPROLIFERATION AND DISARMAMENT

In this budget, we are also requesting funds for nonproliferation and disarmament, including the Arms Control and Disarmament Agency. This topic, of course, has more relevance than ever before with North Korea's failure to meet its obligations under the Nuclear Nonproliferation Treaty.

## GLOBAL RESPONSIBILITIES

Finally, Mr. Chairman, we are requesting funds to support the operations of the State Department in our assessed contributions to international organizations. These funds will provide support for our foreign missions and our people abroad, the foreign affairs pro-

professionals, who dedicate themselves to the hard business of diplomacy in difficult and dangerous places all around the world.

These skilled Americans do much more than just manage relationships with foreign governments. They mediate conflicts, promote exports, defend human rights, and coordinate humanitarian aid.

As you know, Mr. Chairman, last week began with the heroic service of our people under fire. They were representing the United States in Rwanda. Two days later, Barbara Schell, a brave and distinguished foreign service officer, died in the helicopter accident in northern Iraq. These are examples of the kind of service that our foreign service professionals are giving around the world.

Of course, we cannot assign a monetary value to the work that our American diplomats do overseas. But we can say that their commitment, their judgment and their courage add greatly to American strength around the world.

The Department of State has seen a dramatic increase in its worldwide responsibilities. There were more than 20 new posts required by such developments as the New Independent States and developments elsewhere around the world. We are accommodating growing consular workloads, and we are trying to strengthen security at our borders within these stringent budgets.

#### INFRASTRUCTURE IMPROVEMENTS

The Department must also begin to try to reverse a decade-long erosion of facilities that sustain our work around the world. And we must begin to modernize our information and financial management system, along with our telecommunications network. We must upgrade our outdated and increasingly dysfunctional computer hardware and software.

That is why the President has requested a \$30 million increase in our operating accounts. Because it is absolutely essential to try to modernize and bring into this current period our computer software, as well as our diplomatic communications network around the world.

If we once again defer our modernization effort, it would seriously impair our ability to carry out the policy goals that are important to all of us.

#### ASSESSED CONTRIBUTIONS AND THE UNITED NATIONS

The budget category with respect to the Department itself, also includes our share of assessed contributions to other nations and other international organizations. This request is consistent with the statutory restrictions and continues our commitment to pay back the arrears that we accumulated in prior years. The United Nations and other multilateral bodies are taking on some of the most difficult problems of our time—from famine to refugees, to ethnic conflict, to the survival of democracy in developing nations.

We believe the United Nations must set more rigorous priorities and find new ways to cut costs. Given the expanding complexity of U.N. operations, far-reaching improvements in accountability are definitely needed. The United Nations has made some progress, but further reforms are definitely necessary.

One of our highest priorities at the United Nations is the establishment of a fully independent inspector general office, able to carry out the functions of that office in an efficient way.

#### FISCAL YEAR 1995 BUDGET—CONCLUSION

In conclusion, Mr. Chairman, I would say the fiscal year 1995 budget is consistent with the President's deficit reduction plan. It is an austere request, reduced in real terms from the already stringent budget in fiscal year 1994. This budget will continue our cost-cutting efforts undertaken over the last several years. It is also a budget with a single unifying theme—investing in the prosperity and security of the United States.

The support of your committee is, of course, vital to our effort if we are to move forward. You certainly have my commitment, Mr. Chairman and Senator, that we will work closely with this subcommittee in working out these very difficult funding efforts at a time of a good deal of peril around the world and a good deal of need for consultations with the Congress as we tackle these difficult problems.

#### PREPARED STATEMENT

Thank you, Mr. Chairman. I would be pleased to try to respond to your questions.

[The statement follows:]

#### STATEMENT OF WARREN CHRISTOPHER

Mr. Chairman, Members of the Committee: It is a pleasure to appear before you today. The President and I benefit greatly from your counsel and expertise, and I want to continue working with you on the issues and challenges we face.

I am here to outline the fiscal 1995 International Affairs budget request and to highlight the priorities and objectives it advances.

For more than four decades, our foreign policy proceeded from the necessary premise that our overriding national security goal was the global containment of Soviet power. That organizing principle, and the policies that flowed from it, were supported by a strong bipartisan consensus. Indeed, it was that consensus that permitted the expenditure of vast resources in our sustained and successful effort to contain the Soviet threat.

Now we have an opportunity and a responsibility to remake American diplomacy and to reinforce American security in a world unburdened by superpower confrontation. In doing so, the Congress and the executive branch must forge a new consensus about how to marshal more limited resources to meet new challenges.

The President's fiscal 1995 budget seeks to define this new consensus. The budget is consistent with the Peace, Prosperity and Democracy Act, which defines overall U.S. foreign policy objectives for this decade and beyond. Passage of the act, which the President submitted to Congress in February, is a top legislative priority for the Administration.

Our fiscal 1995 submission is the first true post-Cold War foreign affairs budget. This budget supports our core responsibility to maintain our national defense and promote peace. At the same time, it broadens our concept of national security. It places greater emphasis on advancing America's economic interests and on renewing America's leadership on global issues such as non-proliferation, the environment, and population.

This budget meets the great challenges of our era by supporting the six strategic priorities that I have identified as central to this Administration's foreign policy.

Our first strategic priority is strengthening America's economic security. Last fall, I noted that with NAFTA, APEC, and the GATT Uruguay Round, there was an extraordinary convergence of opportunities for the United States. I am pleased that we pulled off what I consider to be a triple play for America's economic future.

This Administration has attached a high strategic priority to encouraging political and economic reform in Russia and the other New Independent States. We do so

not out of charity but because the success of that reform is in the overriding interest of the United States. Our support for economic and political reform in Russia remains a wise investment in America's security and prosperity.

We have strengthened America's enduring political, economic, and military links to Europe. We have fortified the transatlantic partnership by completing the GATT Round and by renewing the NATO Alliance. We have expanded NATO's cooperation with the East through President Clinton's Partnership for Peace initiative. And we are working with our NATO Allies and through the U.N. to contain and end the conflict in the former Yugoslavia.

We also are deepening our engagement in the Asia-Pacific region. The United States is and will remain a Pacific power. We are the key to security and stability in the region. We are participating in regional security dialogues, including the ASEAN Regional Forum, to ease tension and to stem arms races in Asia. We are working aggressively to expand our trade and investment links and to repair our economic relationship with Japan.

We also have an interest in promoting democratic values in Asia, a continent where democracy is on the move yet repressive regimes remain. As you know, I have made it clear to the leaders of China that MFN renewal will require the overall significant progress on human rights set forth in the President's executive order last May.

Achieving a just and lasting Arab-Israeli peace through direct negotiations has been a top priority for this Administration since our first day in office. Although extremists are bent on sabotaging the peace process, that process is going forward.

Israel and the PLO are now concluding their negotiations for an Israeli withdrawal from Gaza and Jericho, and for the transfer of authority to Palestinians in those two areas. Soon the parties will be negotiating the issue of Palestinian interim self-government in the remainder of the West Bank.

I firmly believe that the best way to insulate the peace process and to isolate the extremists is to change the realities on the ground. The actions of extremists, whether in Hebron or Afula, are designed not just to kill individuals but to kill peace itself. We are determined not to let them succeed. Next week, I will be traveling to the Middle East to help move the process forward.

Finally, a hallmark of this Administration is to put non-proliferation and other global issues into the mainstream of American foreign policy. These challenges include building democracy and upholding human rights, promoting sustainable population growth and environmental protection, stemming the upsurge in refugees, and combating terrorism and narcotics.

Mr. Chairman, diplomacy is a powerful tool for advancing these priorities and for ensuring a strong and secure America. Although barely 1 percent of the federal budget is devoted to international affairs, that investment yields enormous benefits for our nation. It allows us to respond to the perils—and to realize the great possibilities—of this new era.

We do not normally advertise the value the nation gets for its international affairs money. I firmly believe, however, that preventive diplomacy and peacemaking is ultimately cost-effective. It saves money. Far more important, it saves lives.

Consider, for a moment, several striking examples. Compare the cost of conflict resolution in the former Soviet Union to the price we would pay if the region were consumed by war. Compare the cost of diplomatic action to curb the spread of nuclear weapons to the price we would pay if rogue states engaged in nuclear blackmail. Compare our share of the cost of U.N. peacekeeping to the price of unilateral military action. And compare the cost of promoting development and democracy to the price of famine and human displacement. Preventive efforts do not always make the front pages. But that is partly a tribute to their success: a crisis averted is rarely reported.

Clearly, our long-term interests are ill-served by responding only to the crises of the day. The challenge of diplomacy is to anticipate, and to prevent, the crises of the future. If we are successful, we can dedicate greater resources to the urgent challenges of domestic renewal.

Mr. Chairman, although much of our international affairs budget is funded by other appropriations subcommittees, I want to summarize briefly the full scope of our funding. Let me describe the budget categories that support our strategic priorities and other objectives, highlighting how each serves the interests of the American people and represents a wise investment for our nation. I will give special emphasis to the ways in which the basic diplomatic functions that are funded by this subcommittee support our nation's foreign policy priorities and objectives.

## PROMOTING U.S. PROSPERITY

President Clinton is pursuing the most ambitious international economic policy agenda of any President in almost half a century. When Congress approved NAFTA, we created opportunities for high-paying export jobs at home, and we built a bridge of greater economic and political cooperation to Latin America, beginning with Mexico. When the President hosted a successful meeting of the APEC forum in Seattle, we reached out to a dynamic region that attracts an increasing volume of U.S. exports and supports high-wage American jobs. With the Uruguay Round, we concluded the most far-reaching trade agreement in history, an agreement to cut tariffs, lower barriers, spur growth, create American jobs, and add trillions of dollars to the world's output in the next decade.

I have instructed our embassies around the world to attach the highest priority to advancing the interests of American exporters, investors, and workers. These efforts make a difference for American businesses every day. To cite one powerful example, the \$6 billion airframe contract that Saudi Arabia awarded earlier this year to Boeing and McDonnell Douglas will support thousands of American jobs. Of course, the sale can largely be attributed to the superiority of the American product. But from the outset of this Administration, the State Department and our Embassy in Riyadh worked hard, in conjunction with Commerce Secretary Brown and Transportation Secretary Peña, to help make this order possible.

In this respect, Mr. Chairman, let me cite the vital role played by the U.S. and Foreign Commercial Service. With our Ambassadors dedicating greater attention to promoting American commerce abroad, that role is expanding accordingly. I want to assure you that our officers overseas are working more closely than ever with the FCS to advance our common goals.

## BUILDING DEMOCRACY

Promoting democracy and human rights reflects our ideals and reinforces our interests. As President Clinton noted in his State of the Union address, " \* \* \* the best strategy to ensure our security and to build a durable peace is to support the advance of democracy elsewhere."

Democracy and human rights have been key issues in our relations with many countries. Our embassies enable us to investigate abuses and to raise our concerns with other governments. The President's plan to open a liaison office in Vietnam, for example, will help us shed greater light on human rights violations in that nation and begin a dialogue with its government on this issue.

Through your subcommittee, the United States also supports multilateral efforts to hold nations accountable for abuses and to act jointly to prevent them from occurring. At the World Conference on Human Rights last year in Vienna, we recommended the appointment of a U.N. Special Rapporteur on Violence against Women, a position approved earlier this month. Similarly, with strong U.S. backing, the General Assembly created the office of U.N. High Commissioner for Human Rights. And thanks to the efforts of Assistant Secretary Shattuck and our delegation to the U.N. Human Rights Commission, the commission recently passed an historic first resolution condemning anti-semitism.

As I have already stated, support for democratic and economic reform in Russia and the other New Independent States remains a strategic priority for our foreign policy. It is also the focus of a substantial part of our budget.

This winter brought renewed fears about Russia's future. Let me emphasize that our policy is guided by a firm sense of our interests and a clear-eyed understanding of the facts on the ground. We have always recognized the difficulties facing reform in Russia. We know that Russia cannot overcome the Soviet legacy overnight. We know that powerful forces are arrayed against reform. We expected setbacks; we expect more in the future. We must be realistic in our expectations, steady in our support for reform, and unequivocal in our opposition to the enemies of reform.

Using funds provided by your subcommittee, Mr. Chairman, we have begun working with Russian experts to clean up Lake Baikal, one of the world's great fresh water assets. We also are enhancing commercial relations between Alaska, our West Coast, and the Russian Far East.

The International Affairs budget also includes funds for the new democracies in Central and Eastern Europe. We are promoting Western investment and helping these countries strengthen democratic institutions and absorb the heavy costs of reform. And we are working to widen market access for Central and Eastern Europe.

We are also requesting \$1.43 billion from your subcommittee for the United States Information Agency so that it can continue to play an effective role in strengthening pluralism and fostering the free exchange of news and ideas around the world. This funding will permit the streamlining of USIA programs recommended by the Na-

tional Performance Review. It will permit consolidation of international broadcasting, which will end administrative duplication and yield future savings. It also will accelerate the shift to the modern communications technology that we must harness to amplify our support for open societies.

Finally, funding for the National Endowment for Democracy, which your subcommittee also provides, is essential. Its activities are designed to strengthen institutions that encourage pluralism, democratic governance, civic education, human rights, and respect for the rule of law. Our fiscal 1995 budget requests \$45 million for the NED.

#### PROMOTING SUSTAINABLE DEVELOPMENT

This Administration is paying significant attention to the interlocking threats of unsupportable population growth, endemic poverty, and environmental degradation.

Population is especially critical because it affects every other aspect of sustainable development. We are requesting money for bilateral programs and those supported by the U.N. Fund for Population Activities (UNFPA). At the Cairo population conference this fall, where our delegation will be able to play a leadership role because of the funding you provided in the fiscal 1994 budget, we will have an unprecedented opportunity to use our contributions to leverage assistance from other donors.

These problems can be addressed successfully only in concert with other nations. As a result of energetic diplomacy, for example, the United States and Japan have agreed to promote family planning and reproductive health around the world. Japan recently pledged to contribute an additional \$3 billion over the next seven years to address population growth and to combat the spread of HIV/AIDS.

Our diplomatic efforts to promote environmental protection also are producing results. Working with other nations, we have limited greenhouse gas emissions in developing countries and reduced the use of ozone-destroying chemicals. We are protecting countless plant and animal species, many of which have important medicinal and agricultural uses. And we are safeguarding the health of the world's oceans.

#### PROMOTING PEACE

The largest share of the International Affairs budget is devoted to promoting peace. More than 80 percent of this money is for maintaining and advancing peace in the Middle East, a strategic priority of our foreign policy.

We also have made every effort to promote conflict resolution in the nations that emerged from the collapse of the Soviet empire. American diplomats have sought to encourage the mediation of conflicts in Georgia and Azerbaijan. We continue to pursue the full, rapid, and unconditional withdrawal of Russian troops from the Baltic states, and we welcome the troop withdrawal agreement between Russia and Latvia.

In your bill, Mr. Chairman, we have requested funds for U.N. peacekeeping activities. As you know, the Administration conducted a year-long review of our peacekeeping policy and reached some important conclusions. Our proposals are aimed at reforming the U.N.'s peacekeeping operations and at improving the way we manage U.S. participation in them.

The purpose of our policy is not to expand our peacekeeping commitments. Rather, we want to establish a process for making sound judgments about when we should support peacekeeping operations and when we should participate in them. Before deciding whether to support a new peacekeeping operation, we are asking tough questions about scope, mission, duration, availability of resources and degree of risk. We are developing rigorous criteria to determine whether existing peacekeeping missions merit reauthorization.

As you know, Mr. Chairman, the U.N.'s operational capacities have failed to keep pace with the rapid growth in new missions. We are working with U.N. officials and with experts from other nations to make peacekeeping more effective and accountable. We are also vigorously pursuing the establishment of a high-level, independent office with the functions of an Inspector General to eliminate waste and inefficiency at the U.N. I want to reassure you that this remains one of our highest priorities with respect to the U.N.

The Administration does not view U.N. peacekeeping as a centerpiece of our national security strategy. Rather, we see it as a tool to defuse crises and to prevent breaches of the peace from turning into larger disasters that threaten our interests and sap our resources. We reserve the right to act unilaterally or through an alliance such as NATO. But when a U.N. operation best serves our interests, we want to ensure that it works effectively.

While some U.N. missions cannot be counted as successes, many have been effective in keeping the peace and in securing transitions to democracy. In places as diverse as El Salvador, Namibia, the Middle East, southern Europe, and Cambodia, U.N. forces have achieved substantial gains. Today, the U.N. is engaged in a partnership with NATO to relieve suffering and promote peace in Bosnia. The U.N. has sent election monitors to South Africa. And the U.N. presence is vital to securing the fragile settlement in Mozambique.

These missions achieve goals that Americans support at a cost far smaller than if we had intervened alone. Fewer than 700 of the 70,000 peacekeepers deployed around the world are American. Of the total cost, America bears 30 percent, and we have pledged to do all we can to reduce that figure to 25 percent by the beginning of 1996.

The cost of U.N. peacekeeping is a matter of continuing concern for both Congress and the Administration. We are working at the U.N. to improve efficiency and to contain expenses. But we must also meet our obligations. We expect our peacekeeping arrears in fiscal 1994 to exceed \$1 billion. We need your help to solve this problem and to provide this funding. President Clinton has made it clear that he considers funding for peacekeeping operations to be a high priority.

Our specific requests include \$670 million in fiscal year 1994 supplemental funds. On Tuesday, House and Senate conferees to the State Department Authorization bill agreed on a provision to authorize these funds with certain conditions. In 1995, we also are requesting \$533 million for assessed peacekeeping missions, including \$288 million for shortfalls, and \$75 million in voluntary peacekeeping operations.

Because we believe that the Departments of State and Defense should have a "shared responsibility" for peacekeeping, the Administration is also requesting \$300 million for the Defense Department to cover the cost of peace enforcement missions and of operations that involve the presence of U.S. combat troops. Let me assure you, Mr. Chairman, that the State Department will retain diplomatic control over these missions.

In urging your favorable consideration of our request, I stress three points.

First, we may soon face an unacceptable choice at the U.N. between rejecting a peacekeeping operation that serves our interests or approving another new mission for which funds do not exist. We have a strong interest, for example, in seeing that conflicts in the former Soviet Union are resolved in ways that maintain the integrity of the New Independent States. U.N. involvement is one way to advance that goal. But if U.N. members are unwilling to contribute troops because they fear they will not be paid, the option disappears.

Second, we cannot expect U.N. peacekeeping to become more effective if we are unwilling to fulfill our treaty obligations under the U.N. Charter by paying our dues. The U.N.'s inability to secure timely contributions of money, troops, and equipment jeopardizes operations and puts peacekeepers at greater risk.

Third, we are promoting a long list of financial and management reforms at the U.N. Our case for reform is stronger when our bills are paid up, and undermined when they are not.

Mr. Chairman, we want to work with you and with your subcommittee. We seek your advice and support on peacekeeping funding and policy issues.

Also included in this section of the budget are funds for non-proliferation and disarmament. We are requesting \$61 million from this subcommittee for the Arms Control and Disarmament Agency. This includes funding to implement the Chemical Weapons Convention and for the extension of the Nuclear Non-Proliferation Treaty (NPT).

Of particular concern today is North Korea's failure to meet its obligations under the NPT. Our objective has been clear. The Korean Peninsula must be free of nuclear weapons and free of the fear they engender. North Korea must not be permitted to threaten its neighbors.

On March 31, the U.N. Security Council called upon North Korea to live up to its non-proliferation obligations. North Korea's leaders now face a stark choice. If they allow international inspections of their nuclear facilities, and if they resume a dialogue with South Korea on the nuclear issue, then we can move toward a diplomatic solution. If they do not, they will face further isolation and deeper hardship, including the possibility of sanctions.

Our diplomatic efforts in the former Soviet Union are producing significant results with respect to denuclearization and non-proliferation. With our assistance, thousands of nuclear weapons in the former Soviet Union will be safely dismantled. President Clinton has signed an accord with Ukraine and Russia that has begun the process of eliminating nuclear weapons from Ukraine's territory. And we agreed with Russia that our respective nuclear weapons would no longer be targeted at any country.

We also have secured a commitment from Russia to restrict its missile-related exports according to the Missile Technology Control Regime. This will help ensure that the world's biggest potential supplier of missile technology is part of the solution, rather than part of the problem.

American diplomats overseas work with our allies on a daily basis to keep sensitive equipment and technology from rogue states. These efforts have, for example, stopped shipments to Libya of chemicals used to make missile fuel and of equipment used to make chemical weapons.

This section of the budget also funds important efforts to confront international criminal activities, such as narcotics trafficking and terrorism. Drugs and violence deny us security, endanger democracy, undermine economic development, and threaten the global environment. We have shifted our international drug control strategy from interdiction to a more effective focus on source countries. We will concentrate our efforts on strengthening democratic institutions, creating economic alternatives to the drug trade, stepping up eradication, and dismantling drug cartels.

#### PROVIDING HUMANITARIAN ASSISTANCE

Humanitarian assistance programs will always be part of our foreign policy because they reflect the values of the American people. They also reinforce our interest in sustainable development.

Our fiscal 1995 budget provides funds for refugees, food assistance and disaster relief programs. Most of the world's humanitarian crises are man-made and, therefore, preventable. By promoting peace, economic growth, and democracy, we hope over time to reduce future needs for such assistance.

#### ADVANCING DIPLOMACY

This budget category includes funds to support the operations of the Department of State and our assessed contributions to international organizations. Effective diplomacy through early reporting, crisis prevention, and the effective use of membership in the U.N. and other international organizations is crucial to achieving America's broad national security goals.

*State Department Operations.*—The State Department provides diplomatic and operational support on behalf of American interests abroad. Its people and missions are vital to our efforts to promote peace, prosperity, and democracy in a rapidly changing world.

More than 40 years ago, Dean Acheson described the men and women of our diplomatic service as "people giving their whole lives to the United States, competent, courageous, devoted." Some, he went on, "were serving in areas of hot war where bombs were dropping and bullets were flying, and others were serving where dangers to health were as great as bullets." \* \* \* They knew their duty and did it."

Much has changed since Acheson spoke those words, but this has not: our foreign affairs professionals still conduct the hard business of diplomacy in sometimes difficult and dangerous places around the globe. American diplomats do more than manage our relations with foreign governments. They mediate conflicts, promote exports, defend human rights, and coordinate humanitarian aid. When crises pass, and spotlights are dimmed, they remain—knowing their duty and doing it.

As you know, Mr. Chairman, last week began with the heroic service under fire of our people in Rwanda. A few days later, Barbara Schell, a brave and distinguished foreign service officer, died in the helicopter accident in northern Iraq.

For two centuries, Americans have chosen this difficult form of public service because they have been deeply committed to America's enduring purposes in the world. We cannot assign an exact monetary value to their work. But we can say with great confidence that the commitment, confidence, judgment, and the courage of American diplomats testify to—and add to—America's strength.

Investing in the skills of the people who manage and execute our foreign policy and international programs is more critical than ever before. At the new National Foreign Affairs Training Center in Arlington, Virginia, we are training our foreign affairs professionals in the diplomatic disciplines of the future. The men and women trained on that campus are learning to promote not just our values but our exports; to protect not only our physical security but our intellectual property. They are studying global issues such as the environment and democratic development. And in the core skill area of foreign language proficiency, the Center is already teaching 10 of the languages of the successor states of the former Soviet Union that were not taught before. That training is enabling them to work effectively in the frontier posts of post-Cold War diplomacy—the 12 new embassies strung across the 11 time zones of the former Soviet Union.

Over the last several years, the Department of State has seen a dramatic increase in its worldwide responsibilities, with more than 20 new posts in the New Independent States and elsewhere. It also has established programs to sharpen commercial promotion, to accommodate growing consular and passport workloads, and to strengthen security at our borders. The Department also must reverse a decade-long erosion in its facilities and begin to modernize its aging information and financial management systems and its telecommunication network.

We must upgrade our outdated and increasingly dysfunctional computer hardware and software. That is why the President has requested a modest \$30 million increase in our operating accounts. To once again defer our modernization efforts would impair our capacity to carry out the policy goals I have discussed today.

Consistent with the National Performance Review, the Department has begun to reform its organization and operations, streamlining operations and decision-making. It is redeploying resources and personnel to meet new challenges. The fiscal 1995 request restores the Department to the 1993 funding level; it does not cover two years of inflation in overseas and domestic costs. The request includes budget reductions incorporating the President's executive orders to reduce personnel and administrative overhead.

To operate within our funding levels, we have drastically reduced hiring to cut 644 FTE's (full-time equivalents) through 1994 and 1,044 FTE's through 1995. We have reduced security programs by \$25 million, and cut spending for my security detail by 25 percent. We have closed 17 posts over the last two years and cut the number of deputy assistant secretaries and equivalents by 28 percent. We have achieved further savings by reducing travel, transportation, and telephone costs, cutting contractual expenses, and controlling supply inventories and purchases.

*The U.N. and Other International Organizations.*—Our leadership in international organizations such as NATO, the U.N., and the IAEA, enables us to advance our interests in the post-Cold War era. The U.N. and other multilateral bodies are taking on the most difficult problems of our time: from famine to population growth; from ethnic conflict to the survival of democracy in developing nations. With strong American support, the U.N. can play an effective role in meeting these challenges.

The President's budget includes \$914 million for our share of assessed contributions to the U.N. and other international organizations. The Contributions to International Organizations appropriation request reflects President Clinton's commitment to fund fully our dues to the U.N. and other multilateral organizations. The request is consistent with statutory restrictions and continues our commitment to pay arrears.

Streamlining the U.N. system is essential if that institution is to become more effective. At a time when U.N. agencies are under pressure to take on expanded agendas, the U.N. will have to set more rigorous priorities and find new ways to cut costs. We are making significant progress in these areas. We are working to strengthen U.N. activities in human rights, humanitarian affairs and the U.N.'s administration of peacekeeping operations, including the establishment of a Department of Peacekeeping Operations.

Given the expanding complexity of U.N. operations, particularly in peacekeeping, far-reaching improvements in accountability at the U.N. are also needed. As a first step, the Secretary General has established an independent Office for Inspections and Investigations. As I stated earlier, we are pressing hard for the creation of an independent Inspector General.

Mr. Chairman, the fiscal 1995 budget is consistent with the President's deficit reduction plan. It is an austere request, reduced in real terms from the already stringent 1994 budget. It will continue the cost-cutting efforts of the last few years.

We have presented this budget to realign our priorities, to reorient our spending, and to restructure our institutions in ways that will promote a broader concept of national security, while protecting our nation's enduring interests. All the parts of this budget are linked by a single, unifying theme: investing in the security and prosperity of the United States.

The continuing support of your subcommittee is vital if our efforts to promote American interests are to succeed. You have my commitment that we will work with each of you to advance the priorities and objectives for our nation that I have described.

#### DEATH OF BARBARA SCHELL

Senator HOLLINGS. Mr. Secretary, on behalf of the committee, we should recognize again, as you indicate, the service of Barbara Schell to her country. The condolences we offered to her family and

the recognition that perhaps it is just as dangerous, in some cases more dangerous, to be in the Department of State than it is in the U.S. Army infantry. But with the new world disorder, you might say, they are in dangerous spots.

On this committee, we do not look upon the Department of State as a bunch of striped-pants diplomats sipping tea. We know the foreign service is hard work, it is dangerous work, and we understand that. And this Senator admires you and your dedication.

#### BOSNIA—URGENCY OF INVOLVEMENT

Now, I remember 1 year ago you testified before this committee with tremendous caution—we were not in Bosnia. Today, you start off with the urgency of involvement, talking about the atrocious conduct going on over there. In fact, last year you established criteria before the United States became involved, before there was any use of military force, you had to stand the Christopher four-way test. It was almost like getting in the Rotary Club.

#### BOSNIA AND THE FOUR-WAY TEST

You said, one, before we involve the use of military force, we must be able to state to the American people the goal for which the force would be used. We have not done that. I would take it in a generous way and say it was peacekeeping to begin with; it moved to protecting the peacekeeping force; and now it has moved to protecting safe havens. And it is a moving target of increasing involvement.

Two, your second test was there is a strong likelihood that we will be successful in the use of force. Of course, we bombed Gorazde twice, and the second time they shot down a NATO plane, and it has exacerbated the situation, rather than brought anyone to any peace table.

Three, the third test: There must be an exit strategy. We must know how we are going to get out. We've got 500 troops in Macedonia, and I do not know how we are going to get out. It looks like we are getting in.

And four: Is it a program that will be sustained by support from the American people.

Well, the headline this morning is that you are asking NATO for approval, not the American people and not Congress. No one has asked this Senator or this subcommittee. And we have to pay for it.

#### PEACEKEEPING APPROPRIATIONS

And right to the point, 4 years ago, we had a \$20 million appropriation for peacekeeping. Today, the requirement is now up to \$1.5 billion. Four years ago there were only 10,000 peacekeepers; there are now 70,000 troops involved in peacekeeping around the world in 16 countries. As you indicate, the United States pays 30.4 percent.

Let us take up the two separately. The actual payment, we can talk about that. But, bringing up Bosnia, I find a different Secretary of State today. You were a model of caution last year, but now one of urgency for involvement. Am I correct, or what is your

comment? Where are we headed, and when are you going to answer how the Christopher four-way test is met?

Secretary CHRISTOPHER. Senator, I think all of those tests can be met in connection with the action the United States proposes here. We just cannot turn our back on the situation, Mr. Chairman. I think that we have a very strong interest in ensuring that this conflict does not spread. We have a strong interest in maintaining the credibility of NATO. We must deal with this humanitarian crisis to the best extent that we can.

#### CLINTON'S THREE-PRONGED INITIATIVE

So, I think the action that the President proposed yesterday, the three-pronged initiative, is the soundest way to deal with this problem. I think that it is not a problem we can walk away from, because I think those tests are firmly met. The mission that we have here is to try to stop the Serb aggression, or at least to ensure that they pay a very high price if the aggression is going to continue.

Our overall goal, though, is to ensure that the parties come to the peace table. Now, we intend to do that in the context of working with our NATO allies. And we intend to do it in the context of involving air power and not U.S. ground troops, which I think continues to be the soundest way to approach the problem.

Senator, I feel very strongly that this is the time when even a cautious Secretary of State, which perhaps I will always be, feels the need to vindicate the U.S. leadership and to take a strong, robust position to ensure that this conflict does not spread, and to ensure that we maintain the credibility of NATO, as well as our own forces.

Senator HOLLINGS. Russia resists your request. The French resist your request. And when you use the expression, "walking away from it," is that not what we did in Somalia? Is that not what we are doing today in Rwanda? We are back to the demonstrations on Haiti vis-a-vis Cuba.

Are we walking away from Haiti and Rwanda and Somalia, but where Caucasians in Europe are involved, we really feel a responsibility, an obligation, is that the case?

Secretary CHRISTOPHER. Senator, you asked a lot of questions there—

Senator HOLLINGS. There is just one question. Why are we getting into Bosnia?

#### STRATEGIC INTERESTS IN BOSNIA

Secretary CHRISTOPHER. We are getting into Bosnia because we have a strategic interest in preventing that conflict from spreading. We are getting into Bosnia because I think maintaining NATO as a credible force in Europe is very important. We also have a very strong interest in preventing floods of refugees from spreading into Europe, where we have a tremendous interest.

In Somalia, to take the case you mentioned, I think the President took a courageous and determined action when, 6 months ago, he said we are going to be leaving in 6 months, but we are going to be giving the Somalis and the other United Nations countries an opportunity to take our place there. We do not have the same kind of strategic interest in Somalia or in Rwanda as we do in Bosnia.

It is a Balkan area. It has been the seed ground of too many international conflicts for us to turn our back on them.

You asked about both the French and the Russians, Mr. Chairman. We are working very closely with the French. I have talked with Foreign Minister Dufee almost every day in the last several days, and I can assure you that they see the situation almost precisely as we do.

We have also been in close contact with the Russians, because I think they understand that the Serbs have been an affront to the world. They have broken promise after promise, and they now have to be dealt with. At least we have to increase the price that they will pay if they continue their purpose.

#### BOSNIA—A CIVIL WAR

Senator HOLLINGS. The expression used, "international conflict." Now, we know 80 years ago, on the morning of June 29, 1914, the day after the assassination, that the Croats and Muslims in Sarajevo were rioting against the Serbs. That is 80 years ago. That is not international; that is national. That is not international war; that is civil war. And that is the point of my question.

We are involving ourselves in a civil war. And we can pick civil wars around the globe to get into. We can start in Ireland. At least we speak the language up there; I can understand the people. We would have a better time if we are trying to find likely places to go. That is not international conflict. And the Europeans have said that refugees—we have got a refugee problem. We got one coming up from Mexico and we got another one coming from Haiti and Cuba directly.

It has been stated by former Secretaries that we had no national interest, no security interest in Bosnia. In fact, your predecessor said, "no dog in that fight." You think we do have one?

#### INTERNATIONAL INTERESTS

Secretary CHRISTOPHER. Senator, we definitely have very strong interests given the way the situation has evolved in Bosnia. By the example that you used, Mr. Chairman, I am surprised that you do not see it as I do. The fact that the situation prompted World War I is one of those historical coincidences that occurred in the former Yugoslavia, and it spread through Europe. We would have done well if somehow that conflict could have been contained. And what we are trying to do is to try to ensure that this conflict does not spread to the rest of Europe.

Senator HOLLINGS. Well, but that is exactly what happened back in 1914. Barbara Tuchman will tell you the story in "The Guns of August"—the other countries got involved. They did not leave it in its civil nature. They did not—that is my point. We are coming to make it. Was it not Santayana who said, "Those who disregard the lessons of history are doomed to repeat them"—and we are doing the same thing. We are making a civil war an international war. And I do not know how it is going to stand what I call the mother test.

Now, I have got a knock on the door. That was a British Harrier that went down in Gorazde, but I got the knock on the door there, later on this year it could be an American aircraft, and the way you

are getting involved in so-called safe havens and everything else. And you have to tell a mother she has lost her son. Bosnia must stand that mother test of saying how and why a son or daughter was killed. All I would be able to say is well, we had a few hearings and we heard about our obligations. And we heard different things from others.

Let me not belabor just that point. I want to yield to our distinguished ranking member, and I have got other questions.

Secretary CHRISTOPHER. If I could just add one thing, Mr. Chairman?

Senator HOLLINGS. Yes.

Secretary CHRISTOPHER. I have the greatest respect for you, and we have had—

Senator HOLLINGS. Well, I would say this in respect to you, I think you and I are on the same side, but you are trying to carry the war of CNN and the news junkies over there in the White House. [Laughter.]

You and I agree, I can tell from your statements last year. That is why I brought your statements to read here this morning. I am trying to get you back to them.

Secretary CHRISTOPHER. Senator, I think this is more than a civil war. The aggression of the Serbs I think is quite transparent. They have in mind a greater Serbia. They are looking to the south, to Kosovo and possibly to Macedonia. They are moving into Bosnia and perhaps into Croatia. I think it is in those terms that we have to contain the conflict.

If it is to be defined solely as a civil war it would be a lot simpler thing. But this aggression began in 1992 on somebody else's watch. It should have been stopped then, and I think it is time now to exact a very high price for continuation of that aggression.

Pardon me, Senator.

Senator HOLLINGS. That is all right.

Senator Domenici.

#### PEACEKEEPING ARREARAGES

Senator DOMENICI. Thank you very much, Mr. Chairman.

Mr. Secretary, I think everybody knows that this is an Appropriations meeting, with reference to budgeting matters. But obviously we cannot avoid the compelling issues that are before us.

I want to open my questions by first saying, Mr. Chairman, I did tell the President, and I think a lot of Senators did, that we would try to get some of the money that is owed for peacekeeping arrears; that we would try to find some way to fund that. I will try to do that.

Senator HOLLINGS. Would you yield on that point?

Our distinguished Ambassador to the United Nations called relative to Georgia—and Shevardnadze. And she wanted to know ahead of time about support for peacekeeping there, to help our friend there and help that country. And I said, so long as it is peacekeeping. But, you know, to wonder, where is the peace there? And yet, you have still got them there. Oh, you can say there are no American troops, but the United States is paying one-third of the cost.

In Rwanda right now, there is no peace there.

Excuse me.

#### ARREARAGE FUNDING

Senator DOMENICI. But I do want to say, Mr. Secretary, I think that, in the United States Senate at least, what is going on in Bosnia right now, and what is the American policy, and what chance do we have of some success, if we know what success is—I think that is all going to become part of whether we can pay our arrearage for peacekeeping. And I do really believe that at every step, a defense of what is going on over there is going to have to be made, and of what is going on in the United Nations, if there is any chance of getting arrearage money.

I am not going to spend much time on the arrearage, other than to tell you I have no idea where we will find \$1.1 billion. I understand there may be some way to find \$650 million to \$670 million without breaking the budget.

Having said that, I want to make a point for the American people with reference to peacekeeping and how we pay for it.

First, I would like very much to suggest, Mr. Secretary, that there is a real difference between peacekeeping and peacemaking. And, frankly, I believe what we are busy about now in Bosnia is peacemaking, not peacekeeping. And, shortly, I will ask you about the peacekeeping in Bosnia which is currently hypothetical, but there seems to already be a very big commitment on the part of our President to what we are going to do when we ever get to a peacekeeping posture.

And I want to discuss whether the commitment is realistic or not, in light of the possible success of U.N. peacekeeping.

#### PEACEKEEPING MONEY NOT AN ENTITLEMENT

Having said that, Mr. Secretary, it seems to me that you have to make the point with the President and with the Ambassador to the United Nations and with all of the administration's international policymakers that peacekeeping money is not an entitlement. We have made a commitment to the senior citizens of America—and we have given them an entitlement; they will get their checks. But we do not have an entitlement to pay for peacekeeping or even for peacemaking.

And I am afraid that we are moving in this so-called new world of either order or disorder—that we are moving perilously close to acting like Congress and the American people are just going to have to pay whatever the bill is for whatever we choose to do on behalf of the United Nations. And I really want to make the point—as somebody who has to send money for this—we really better get a policy, and a firm one, on what peacekeeping and peacemaking mean from the standpoint of the United States, our people and our taxpayers. And I do not mean ad hoc, case by case.

#### GUIDELINES NEEDED

Sooner or later, we have to put into some kind of acceptable guidelines, for the people of this country and Congress, what regulates and rules our peacemaking and peacekeeping. And I think our chairman, in his way, has indicated this morning there is no

such thing. There are 16 peacekeeping efforts in the world. Americans do not even know about them, but it is costing us money. And we are the biggest payor. We pay 30.4 percent.

So, before I get on to any other questions, I want to ask, do you agree with that? And, if so, what is your commitment on behalf of the administration to getting that done and done quickly?

Secretary CHRISTOPHER. Senator, I certainly agree with the concept that Congress has to be involved before a commitment is made to the United Nations for peacekeeping. I would say that in 1992 and perhaps 1993—particularly 1992—the United Nations undertook a number of peacekeeping operations without thinking carefully through all that was involved in them—without knowing where the money was going to come from. We have tried to change that.

As you know, Ambassador Albright has been asking a number of serious questions at the United Nations before we go into new peacekeeping operations, including how they are going to be paid for. We have made ourselves somewhat unpopular at the United Nations, but I think we are determined to make sure that every new peacekeeping endeavor is well designed and that we know how it is going to be paid for. Also it is necessary to consult very carefully with the Congress.

#### CONSULTATION WITH CONGRESS

As you probably know, the State Department authorization bill, which is just coming out of conference, requires very extensive consultation with the Congress before we go into peacekeeping operations. I believe it requires, where practical, a 15-day notice to the Congress before we vote for a new peacekeeping operation.

In addition, Senator, to give you some idea of my determination on this, I think we have to review each of the 16 present operations and see which ones should be sunsetted. Some of them have been in existence for two or three or four decades, and they have become kind of a way of life in the country where they exist, sapping up money over the years, and really acting as kind of a local police force. I think we have to examine each one of those.

Now, you will find that each one has their own constituency, perhaps even here in the U.S. Congress. I think we need to be very hardheaded about which ones continue.

Indeed I would not mind an internal rule in which we could not establish new ones without reviewing very carefully whether old ones should be sunsetted or terminated.

There is a Presidential decision memorandum which sets a whole new series of questions that have to be asked before we go into peacekeeping operations. One set of questions for peacekeeping operations where the United States pays its assessment, but does not participate. Another, but related, set of questions for operations where the United States is going to be involved actively, especially where that participation would be military.

Those are very good questions to ask. The proposal worked out for the first time within the administration is a sharing of responsibility and burdens within the administration, between the Department of Defense and the Department of State.

Prospectively, I think we are in much better shape than we have been in the past. If we can get the arrearages taken care of, I really think that we will be in sound shape to avoid a re-creation of the situation we find ourselves in now. Certainly, Ambassador Albright and I are committed to being very hardheaded about that.

#### PEACEKEEPING IN BOSNIA

Senator DOMENICI. Mr. Secretary, so that I can put it into perspective for the American people, the same budget has to pay for the entire crime fund for the U.S. Government as has to pay for peacekeeping. And I might just mention, I think the entire crime fund budget of the President to this committee is about \$2.4 billion.

Are those the numbers, \$2.4 billion for crime per year?

Senator HOLLINGS. Yes.

Senator DOMENICI. The new money for new crime fighting is about \$2.4 billion.

Now, look, my own estimate, Mr. Secretary—I know it is only mine, but I believe it is going to come out close—if we put 25,000 troops in for more than 1 year, in a peacekeeping mode, I believe it will cost more than \$3 billion. You have estimates of \$1, \$1.7 billion. I think it is \$3 billion to \$4 billion.

So, I just want to put in perspective that the President's entire new crime initiative will cost less than what it will cost for 25,000 troops if we ever put them in Bosnia. So, we have the problem—Congress has the problem and the public has the problem of, how do we pay for this?

Now, let me ask you a question. You have told us in your good way this morning that it is very, very essential that we do what the President recommended yesterday. And I have got the impression from you that you think it might work.

Now, Mr. Secretary, this situation in Bosnia started in April 1992. And there have been instances, in terms of Serb abuse of people, that are more serious than today, over these 2 years. More people were killed than are going to get killed. More people were run out of their homes.

Now, why do we think we are going to succeed now, when it seems we did not know what to do then, and almost anything we tried to do did not work? What has changed?

Secretary CHRISTOPHER. Senator, long hours of discussion went into the proposal the President put forward yesterday. We think, and I feel personally confident, that is the best choice under the present circumstances.

Why will it work?

Here is why we think it may work. What is different from the past?

Well, the administration began with a new initiative about last February. The Europeans turned to us and, in effect, said, we cannot solve this problem without the United States' participation. This problem will fester and endanger all of Europe as well as NATO if the United States does not participate. So we have begun to participate.

## SARAJEVO MODEL

Under United States participation, we have accomplished several important things that give us momentum. In Sarajevo, I would say that the ultimatum from NATO and the action of the United States leadership saved that city. We have a city that is now not normal, but I think it is returning to normalcy. They are getting back to some realization of an approach to civilization.

The city was under very serious risk at the time. At the present time, it is moving in the other direction, thanks to the NATO ultimatum and thanks to the fact that the Serbs did remove their heavy weapons from the exclusion zone.

Following that, or in conjunction with that, under the leadership of our diplomacy, the Croatians and the Bosnians got together and resolved their differences. And where there used to be battle lines there are now two entities cooperating with each other.

So, I think we have taken two important steps.

Unquestionably, Gorazde interrupted that momentum. I think if we can now find a way to take advantage of the Sarajevo model, to use that example, and to apply it to the other safe areas, we have the prospect of reaching a conclusion between the parties.

## GENEVA MEETING

One of the reasons, Senator, that I have some hope about this situation is that the parties were very close together at the last Geneva meeting in terms of a way to have their respective interests defined. Their percentage relationship was very close to being decided.

Then we were thrown off by the Gorazde endeavor, where the Serbs consistently lied not only to the world community, not only to the United Nations, but to their longtime ally the Russians. I think they have created a different situation for the way they have conducted themselves in the last several days.

Nevertheless, I think those factors, taken together, the Sarajevo model coupled with the federation between the Croatian and the Moslems, and the fact that the parties were close together in Geneva, gives us an opportunity that if we can get them back to the peace table, under the pressure of the NATO initiative that the President is recommending, then we improve our chances for a peaceful settlement of this problem before it festers to the point where it endangers Europe and it endangers NATO as well.

Senator DOMENICI. Mr. Secretary, we always have to go back and borrow from the past some words that come into our vocabulary with reference to easing into something. And when it comes to peacekeeping versus getting involved with our own troops and getting them killed and going to a limited kind of war, the words always come up a slippery slope.

Now, frankly, Mr. Secretary, I hope what the President has proposed will work. But I want to share with you that I believe it is also very dangerous from the standpoint of the slippery slope theory. Because surely something could happen to a lot of Americans while we are going about this process. And we are very apt to get involved well beyond what we currently plan.

I want to ask a couple of questions about the negotiations. Can I do that?

Secretary CHRISTOPHER. Certainly.

Senator DOMENICI. There is a renewed effort and a renewed sense of vigor on the part of the administration that negotiations might work. Frankly, I do not understand that at all. But I am here to learn and I am here to listen.

#### PARTITIONING COMPARED TO REDMAN PLAN

I have gathered that there really never was a country of Bosnia; that actually, as far as that name and that country, it was forced on that part of the world, and that really there are very distinct peoples within the rubric of the name Bosnia. And I understand that one of the approaches to resolving this diplomatically is called a partitioning, as compared with the Redman plan, which is something different from partitioning. It still tries to put some overall government over these very diverse people.

Is the United States willing to consider partitioning as a solution to this? Or are we wedded to the Redman plan?

Secretary CHRISTOPHER. Senator, we really want to do whatever the parties agree upon. We are going to facilitate that as well as we can. From our contacts with the parties, we think they retain an interest in having an overall umbrella organization.

#### POSSIBILITIES FOR SETTLEMENT

As you know, Bosnia was created on the basis of a referendum, or a vote. I certainly agree with you that there are parties which have, as both you and the chairman have described it, long hatreds. In many countries of the world, ethnic groups who have long been at odds have found ways to live together. There are certainly very strong ethnic groups here in the United States, and we think nothing of the fact that peoples who have strong differences find a way to live together.

So, we hope that may be possible there.

You asked why I think it may be possible in Bosnia at the present time. Let me give you a little sense of the way the negotiations looked in Geneva. At that time, which was before the Croats and the Bosnian Government had gotten together, there was a general understanding that the Bosnians would have about 33 percent, the Croats about 17 percent, and the Serbs would have the remainder. The understanding that they had reached in Geneva meant that a combined federation would be at about 51 percent. The differences at that time were over the quality of the land that each held.

Now, the context of that conversation and of that negotiation was that they would be part of an overall federation. We can certainly contemplate any different result in that, Senator, if the parties desired it and if it looked like the best way out. That is, a Croatian-Bosnian federation on the one hand, and a Serbian entity, linked loosely with Serbia in the same way that the Croats and the Bosnians are linked with Croatia.

That is one possibility. And the United States certainly would not have any basis for objecting if that is the way the parties ultimately wanted to go.

What we would like to do is to see a settlement that would bring peace to the area.

Our strong preference, because we do not like to see a country that was together at one time split up, is for a retention of the idea of a Bosnian state. That, I believe, is what the Muslims and the Croats strongly prefer. Because they think that, over time, the Serbs who live in Bosnia would want to join with them.

That is why we prefer that, because it appears to be the interests of the two countries that we have something to do with bringing together. Ultimately, what we want to see is peace in the area.

#### RUSSIAN INVOLVEMENT

Senator DOMENICI. One last question until the second time through, Mr. Secretary. What do we expect the Russians to do? Do we expect them to have a big impact on what the Serbs will do? And, if so, do we expect America to have a big impact on what the Muslims will do?

Secretary CHRISTOPHER. Senator, the best I can say about the Russians at the present time is that we are in very close consultation with them. They seem to be more annoyed, on the verge of being outraged, at what the Bosnians Serbs, at least, have done with respect to the breaking of commitments.

I would expect to see the Russians play a positive role in reaching a settlement. I do not think it is desirable, Senator, to align things so that they have the sole responsibility for the Serb side and we have the sole responsibility for the other side. I think all the countries ought to be working toward a settlement.

Other countries have influence with the Croatians, while other countries have influence with the Serbs. So, we ought to be working together. I would expect the Russians to work with us in trying to achieve peace there.

As far as the United States is concerned, it is clear that the Muslims feel a special concern for or relationship with the United States, and we have tried to put ourselves well in that connection. But, at the same time, I think the United States has to be able and willing to deal with all three parties in the situation.

We have also taken the position, Senator, that we should not pressure the Muslims into a settlement. A settlement reached would have to be one that, in their own desires and own judgment, is the best settlement to reach. This will not be easily done and it will not be done by the United States alone by any means. But I think we owe it to that area to see if we can use our influence to create a peaceful settlement in an area which has yearned for it for such a long time.

Senator DOMENICI. Thank you, Mr. Chairman.

Senator HOLLINGS. Thank you.

#### UNITED NATIONS OR NATO

Mr. Secretary, I am betwixt and between the United Nations and NATO. As I have always understood it, this was peacekeeping under the United Nations. I know the Canadians have pulled out of Europe their NATO troops. And yet, they have got—I took it to be a United Nations commander there in Bosnia of the troops that we are trying to protect, in the first instance, with air strikes.

Is it the United Nations or NATO?

Secretary CHRISTOPHER. Senator, this is I guess the first instance in the history of these operations where the United Nations has turned to NATO to conduct peacekeeping operations. As you know, under U.S. leadership, NATO has been enforcing the no-fly zone. NATO has agreed to provide close air support.

The close air support is at the request of the United Nations commanders in Bosnia.

I want to emphasize that the U.S. aircraft are under NATO command. They act in response to requests from the United Nations, but they are under the command of the NATO officers, and, of course, Admiral Smith, who is the commander of the southern region.

#### CONGRESSIONAL SUPPORT

Senator HOLLINGS. Well, of course, we do not control the United Nations, but we do control NATO. So, we asked ourselves. I mean, there is not any question in my mind that we have got control of that. And that is what I am asking about, which gets back to my Christopher test, that you have not asked us. You have not asked the Congress.

And you can be over in the White House and ask yourselves by saying you are asking NATO. And I am back to the mother test. When the knock on the door is there and the mother calls me and says, "Why was my son killed. When did Congress debate it, and when was it discussed, and what was the mission. As you say Mr. Secretary, and how are we going to be able to get out." How do you think you have got the support of the American people if you have not even asked Congress?

Secretary CHRISTOPHER. Mr. Chairman, I think we have consulted fairly extensively with respect to our involvement with NATO and the use of air power. Of course the President has also said that before we put any ground troops into Bosnia to implement or carry out a settlement that was reached, it would have to be done with the concurrence of Congress. We recognize that Congress would have to be involved in that type of situation.

#### PEACEKEEPING LESSONS

Senator HOLLINGS. Well, you and I both know this—when you talk about U.N. peacekeeping, that there are lessons to be learned. I know when I was down in Latin America recently, in Uruguay, I realized that life is valuable the world around, but not politically as valuable in some countries as others, particularly the United States. We put on it at least a politically higher value.

We learned that in Vietnam. We could have beat them if we were willing to stand the casualties. But that 10-to-1 body count just did not work. And I do not think it should have.

But Uruguay sent peacekeeping troops to Cambodia, and politically they vote that, not that they are all gung-ho about Cambodia, but they are gung-ho about their defense budget, which gets funded through United Nations peacekeeping. And when the public understands that this is how commitments are very easily made at the United Nations level. And the United Nations requested NATO—easily made at the United Nations level, they get \$1,000 per troop

per month—that is \$12,000 in their pockets—\$6,000 for the country and \$6,000 to the trooper himself.

So, that is how they pay for their defense budget. So, that is bothering this Senator, as you can note from my comment. Because we have not been asked, and we have not responded to how we believe the four-way test can be met.

I do not know what the goal is, other than you can use, generally, peace, but it was peacekeeping—and it is now safe havens. And there is not necessarily a strong likelihood that it will be successful. We do not have an exit strategy if we get in. And we have not secured the support of the American people for military action. But, so much for Bosnia.

#### ELECTION OBSERVERS IN MEXICO

What about Mexico? Because we have got a chance there if it is an honest-to-goodness observer force. I wrote the President asking him to send Jimmy Carter and some observers down to Mexico last year before the NAFTA debate. Now, it seems like the PRI and the Mexican Government of Salinas is coming around to agreeing about observers. But you and I know in the past when election observers went down to Mexico City and they drank margaritas up until election day, and then went out and flew around and said "We observed."

They have got to look at the audit system, the computers, and the voting rolls and actually be on station. Are we following that in Mexico? Are we a part of the election observers?

Secretary CHRISTOPHER. Senator, all the voter observation situations that I know of have been very responsible and very careful. Any one of those that has been headed by President Carter, they have gone down in advance.

Senator HOLLINGS. Will President Carter participate? Are we going to have our distinguished former President? I would be satisfied. Because he would not be part of a charade. They supposedly had observers before. And when they observed, the election was being stolen, they said, "Out of here," put the other fellow in. That is what I am talking about.

Secretary CHRISTOPHER. Mr. Chairman, this is an evolving situation in which Mexico apparently is beginning to recognize the importance of observers. I can assure you, if we are involved in an observer situation, it will be a responsible and tangible one, and not the kind that you describe as a 1-day operation.

Senator HOLLINGS. But as of now, we are not involved?

Secretary CHRISTOPHER. As of now, we are not involved.

#### OVERSEAS PERSONNEL

Senator HOLLINGS. When we go to your posts overseas, we hear from the Ambassadors about the personnel and how, as Ambassador and our man in country, inevitably have a dickens of a time supporting all of these other agency personnel on. Ambassador Davidow, down in Venezuela, he recommended that the FAA and the Internal Revenue, IRS, get back to Miami. But I think he was overruled. Because I know the Secretary of State has got a lot of problems, much less intramural ones between agencies back in Washington.

But I wish you would look at that. Or in Bolivia, Ambassador Bowers, he has only got 20 personnel from the Department of State that are doing real diplomatic work, but there are over 1,000 Federal personnel down there that he is responsible for.

What about that? Are you backing up the Ambassadors at headquarters when they ask, let us get these folks back to the United States. These agencies like to send everybody everywhere. And then you take on the bill at State and take on the administrative costs.

Secretary CHRISTOPHER. Mr. Chairman, that is a constant problem for us. We deal with that on an almost daily basis. Under Secretary Moose, who is here with me today, will tell you that this is one of the toughest problems we have. Sometimes the United States will have a strong interest, for example, in narcotics or in having military liaison people there. So, they will send a number of people in and they become an administrative burden on the Embassy.

It is very hard for us to turn down sister agencies when they want to send people there. But we are very troubled by the burden it gives to the State Department. Also, the cost sharing formulas are a constant subject of debate between us and other agencies. We have people in the Embassy who, in our judgment, are not fully paying their share of the load.

This is something that we constantly work with. We appreciate the support of this committee in trying to make sure that we get a fair allocation of the costs.

We obviously do not want to prevent the Government as a whole, or other agencies, from doing the job that is being asked for by the Congress and the American people in many instances. However, it certainly is a burden for our Embassies, and we try to support our Ambassadors in every way.

#### INMAN STANDARDS

Senator HOLLINGS. With respect, Mr. Secretary, I want to call to your attention the new Embassy in Santiago, Chile. It cost \$65 million. Now, we have an Embassy downtown now. But, instead, trying to respond, I guess, to Inman security standards, we sold out downtown and we moved out to the suburbs for \$65 million. We sent marble up to Vermont to be polished. We get the granite from Texas and ship it all the way down, \$65 million.

Now, I understand that this project was not done on your watch. And you are also completing one in Venezuela. And that one was put on the side of the park where you could overlook Caracas, but then you could not look over anything because there was not any windows to look out of. And we found out that it cost us a lot to send people down there on special assignment, and paid fees and hotel bills and the overtime bills. It costs just to sit and observe, under Inman standards. That Embassy is up to \$67 million. There is another there, of course, in Lima, Peru. That is worth \$66 million.

Now, fortunately we did get Buenos Aires to stop. Downtown we have the finest facility. It is an historic building built in 1911. And everyone in Buenos Aires pleaded with me to stop the State Department from selling the Ambassador's residence. The civic com-

munity and the political community; President Menem brought that up, the very first thing. He was talking to the President. He said, "For heaven's sake, do not get one of these plans to move everybody out." The American business community uses the building—it serves as an American center for the community.

So it is the best facility for diplomacy you could possibly find. Franklin Roosevelt stayed there. And if we have to write in law—I know I wrote it into the bill in 1982 to stop the sale—we will.

#### OUTDATED STANDARDS

Secretary CHRISTOPHER. Senator, could I just go back to the central point you were making. I know your delegation recommended we take a look at the Inman standards, and I could not be more pleased by that. I think the result of your initiative has been that they are being examined. Frankly, I think that those standards are in many ways a relic of the cold war period where we were really building fortresses. In many instances they are very ill advised.

As far as my travels around the world, Senator, I have noticed some of the same things you have, which is that we are building huge compounds far from the center of the city in isolation, where the Ambassador's residence is part of the compound. It may be wonderful for security, but it is very poor for contact with the people. These Inman compounds are also very bad, I think, in terms of the oversize of the endeavor as a whole.

So I was not here when the Inman standards were adopted. I am sure that they were adopted with consultation with the Congress, and probably they served a good purpose in the cold war period. Now I think those standards are outdated.

Take the Buenos Aires case. We will not sell the old residence in Buenos Aires. We will retain it because I think it is very desirable for us to be in historic, culturally important buildings. Also, this is to avoid the sense of isolation that I have found in several Embassies where they have constructed these huge compounds combining the Embassy and the Ambassador's residence.

And I believe that almost every Ambassador that I have talked to has said this is not the place for them to be. People from the city will not enjoy coming to visit them here, because it is kind of a fortress. So I just agree with you completely, Mr. Chairman, and I am glad your visit and your reactions caused a serious review of that whole situation.

Senator HOLLINGS. Well, I appreciate, because it—they got the Bush Room there, and the Kennedy Room, and they got the Roosevelt in Buenos Aires. And I remember as a young lad and the President shipped out of my hometown of Charleston, SC, in 1936 to go down there. And that is not when I got interested in politics. [Laughter.]

#### STATUS OF PROPOSED CONSULATE CLOSINGS

The closure of 20 consulates was recommended by former Secretary Eagleburger; what is the position of the Christopher administration?

Secretary CHRISTOPHER. Mr. Chairman, I am glad to say that we have virtually carried out that recommendation. I will stand cor-

rected on the exact number, but I think we closed 14 consulates or Embassies during the course of the time I have been Secretary of State, and 3 more are due to be closed in the very near future. So we have taken care of 17 of the 20 recommended. I am sure we will need to be closing some others at future times.

[The information follows:]

#### POST CLOSINGS

Since the beginning of fiscal year 1993 we closed 14 posts and we anticipate closing 3 additional posts during fiscal year 1994. The additional posts to be closed are St. Johns, Antigua and Barbuda; Maracaibo, Venezuela; and Kaduna, Nigeria.

#### BACKGROUND

Posts closed since the beginning of fiscal year 1993:

Alexandria, Egypt	Songkhla, Thailand
Geneva, Switzerland (branch office)	Douala, Cameroon
Honiara, Solomon Islands	Genoa, Italy
Martinique	Izmir, Turkey
Mombasa, Kenya	Mazatlan, Mexico
Oran, Algeria	Moroni, Comoros
Palermo, Italy	Salzburg, Austria

#### INFORMATION SYSTEM UPGRADES

Senator HOLLINGS. Secretary Moose said information system, I could tell that we had talked to the AO in every one of these countries, that your operating budget for these information system upgrades is some \$25 million? Is that right? I know the system is upgraded.

Secretary CHRISTOPHER. Yes.

Senator HOLLINGS. But I want to be sure you put in enough money so we can stay in touch.

Secretary CHRISTOPHER. It is very important we do that, Mr. Chairman. What has happened for too many years is that those funds were asked for, and then when it came down to the final budget people said, well, we can postpone that for a year or two. We have reached the point where the system is very inadequate.

#### SURCHARGES FOR EXPEDITED PASSPORTS

Senator HOLLINGS. On the matter of passports and fees, I usually resist fees but I am trying--Senator Domenici and I both have to try--to find the money to get the job done. We understand that it normally takes 10 days, Mr. Secretary, for one of the centers to issue a passport. But every year you are inundated with last minute requests for 1-day service. About 750,000 of those handled each year, that same day service. Could we put down a \$15 surcharge on that; \$10 would raise some \$15 million that would help the communications system or the consular service.

Secretary CHRISTOPHER. That sounds like a very good idea to me, Senator. I had not heard it before. If people want 1-day service, I think they ought to pay for it like you pay more for your laundry if you want 1-day service. [Laughter.]

Senator HOLLINGS. The distinguished ranking member said why did you not ask for it?

Senator DOMENICI. Why did you not ask for it?

Secretary CHRISTOPHER. Do not worry, we will, now that you have suggested it.

Senator HOLLINGS. Let me hold.

Senator DOMENICI. Mr. Chairman, I hope the Secretary knows that we know how busy he is, but I do have a number of questions that we—

Secretary CHRISTOPHER. Senator, I am glad to stay as long as you want.

#### PEACEKEEPING—COMMAND AND CONTROL

Senator DOMENICI. Mr. Secretary, let me ask a question about command and control, and then one about the potential cost to the American military if we put 25,000 troops in as peacekeepers, and then a series of questions about the United Nations. I will do it in that order.

First, on command and control, I do not think the American people understand what the command and control situation is. So might I just use an example and ask you, if you can, to explain who directs the military airplanes to take action, most of which would be American? One of the concerns raised about the involvement of the U.S. troops in peacekeeping operations is the degree to which they are subject to foreign command and control.

For instance, to cite one example, last month a group of French peacekeepers in Bosnia came under artillery fire. They requested U.N. approval for an airstrike. The approval took 3 hours. By that time the bombardment had ceased and, obviously, the artillery had withdrawn. Defense Secretary Perry said about that episode, and I quote: That is not compatible with an effective air support system, close quote. I suspect that the troops who were under this artillery fire would describe the lack of support in stronger terms.

But if United States troops are eventually deployed in Bosnia in a peacekeeping operation—and, clearly, I do not want to leave the impression that I support that at this point. I think it has to be thoroughly debated. If we are there, or anywhere else for that matter, how can the United States and our people ensure that similar command and control problems do not occur? And I submit, is not the only way to avoid that to have American troops under American command wherever they are going to be dispatched or used?

#### AMERICAN COMMAND ASSURED

Secretary CHRISTOPHER. Senator, essentially the answer to that is yes. President Clinton, I think, has made it clear that he will never relinquish command authority over American troops. Now, let me build a good map of what you have put to me.

First, the American pilots who are flying those planes are under a NATO command. It happens that the NATO commander for that region is Admiral Smith. So when those planes take off, they are under the command of NATO, but under the command of Admiral Smith. There are American planes but, as you probably noticed, there are also French planes and British planes.

Senator DOMENICI. Who does Admiral Smith work for?

Secretary CHRISTOPHER. Admiral Smith works for General Joulwan, who is the Supreme Allied Commander for Europe under NATO, an American general.

Senator DOMENICI. He takes direction from home.

Secretary CHRISTOPHER. He would take direction from NATO itself, the North Atlantic Council. But as far as military matters are concerned, he is in charge and he delegates his authority to Admiral Smith. Now, the airstrikes are called for by the U.N. commander, but once they are called for, operationally they are under NATO's command.

Now, on the other example you gave me, suppose American troops were in Bosnia. I cannot imagine a situation except that American troops would be under NATO command. Now, historically, Senator, as you know, frequently in the NATO command they will have the command of a German officer present day, or a British officer. But as long as they are under NATO command, I think the Americans ought to feel relatively confident, because the Supreme Allied Commander, the SACEUR, is and has been for many years an American. General Shalikashvili was the predecessor of General Joulwan, who is there now as our NATO commander.

So it is very clear to me that operationally, from time to time, Americans may be under the command of other NATO countries. But in both instances you gave, it happens that an American admiral or general are in overall charge. I feel confident that if we put American troops into Bosnia they would go under a NATO command and be there under an American general.

Senator DOMENICI. But essentially, the American people have to understand that the United Nations decides whether we are going to conduct airstrikes. This General Smith who is part of NATO does the tactical management for NATO. But in neither instance is that American. We do not run the United Nations, so one time we had to run around to find a Japanese diplomat, not military, to help make the decision. And then from that point we had to go to NATO and American planes were dispatched. Now, that is the chain of command, as I understand it.

Were not these tactical directions coming from General Rose and our Japanese U.N. man, Mr. Akashi?

Secretary CHRISTOPHER. Senator, the first request has to come from the United Nations, the so-called icebreaker request. Once the operation is started, then it becomes a NATO operation conducted in close coordination with UNPROFOR. The United Nations is not involved in the command of the aircraft or the tactical aspects of it, but the first request does, under the arrangements between the United Nations and NATO, have to come from the United Nations.

Senator DOMENICI. I do not want to spend any more time on that. I think it is an issue that will be thoroughly exposed and discussed in the Armed Services Committee. Let me talk a little bit about Bosnian costs, if I might, with you.

#### BOSNIA—PEACEKEEPING EFFORT

And, Mr. Chairman, I have spent a great deal of time trying to figure out where we were going to get the money if we have 25,000 peacekeepers. And let me state for the record here, the chairman knows that yesterday the Senator from New Mexico decided that I did not want to see any more money cut out of defense. And so I choose to make a public statement about the budget; that I was prepared to vote for a budget that took out all of the new cuts that

were put in by the so-called Exon-Grassley amendment; that I would support that budget resolution if we took all those cuts out.

Now, I do not do that lightly. That makes me singularly a Republican who is probably going to be voting for a budget that I did not help prepare, and the Senator knows that.

Senator HOLLINGS. A position of honor. [Laughter.]

Senator DOMENICI. That does not help make it easier. [Laughter.]

Secretary CHRISTOPHER. Senator, I read that in the paper this morning and I was going to say something nice about it, but perhaps I ought not to now. I applaud your courage, Senator.

Senator DOMENICI. That is pretty good. [Laughter.]

Mr. Secretary, let me go through a little scenario with you and tell you what concerns me. Over the past several weeks now, we have had the reiteration of a commitment to support peacekeeping in Bosnia with American ground troops if there is an agreement acceptable to the parties in Bosnia.

Now, with the United States in the forefront of this diplomatic process, it seems to me that it is unlikely that the President is going to be able to hold back from this commitment, and certainly you have told us nothing here today indicating there is any intention to pull back from that. Now, current estimates place the necessary force at 50,000 personnel, with the American commitment of 25,000. The plan now envisions all three combat brigades of the First Armored Division that is in Germany, plus an additional infantry combat brigade.

#### BOSNIA—PEACEKEEPING COSTS

Now, direct costs. United States costs in former Yugoslavia over 20 months for about 28,000 personnel is reported at \$1.7 billion. Official Pentagon estimates set it at about \$1 billion. Now, the annualized cost of a similar sized 4-month expedition to Somalia, according to the Congressional Research Service, was \$2.25 billion, not counting expenditures taken out of the five services; which just—they are going to be paid anyway, so they are paid there. So everybody should know that \$2.25 billion is on top of the ordinary costs.

So the argument can be made, as I view it, that the direct costs would rise to between \$3 billion and \$4 billion annually. Now, Mr. Secretary, I think that is very important, because where is that found in any budget? I mean clearly we do not have \$3 billion or \$4 billion. We do not even have \$2 billion requested. And if we have caps on what we can spend, you understand what happens; it comes from somewhere else, or we just say we are not going to be bound by any deficit efforts and pay it anyway.

The commitment in Bosnia, in size, will force the services to retain added force structure, and I would say probably two divisions from what experts tell me. The cost of a division is \$2 billion annually, or up to \$4 billion, so indirect costs are likely to be in the range of \$4 billion. Real costs, then, when you take what we already pay for the military, and this is just the add-on, \$6 to \$8 billion a year. And I think that is the way it is going to come out, if these numbers are looked at in advance.

Again, let me talk about casualties, because we have got to talk about them. After 20 months in the former Yugoslavia the United Nations has had 80 dead and 800 wounded. Depending on the environment—and I understand that they were all there as peacekeepers. They surely were not fighting; they were there as peacekeepers. But depending on the environment, I think that our losses would swing dramatically, but some casualties would be inevitable.

Now, let me just put on the record here, because we are talking about using defense money and about what we would do in the rest of the world once we are committed here, and people would think 25,000 is not much. Maintaining two divisions, a two division force in Bosnia will consume at least six division equivalents. Two in Bosnia and, you know, you have got to rotate them, and we will have two on trainup, as they call it, and two on standdown.

That is pretty big. So anybody that thinks that is a minor commitment, that is a very, very major commitment. And I want just to close this by asking do you know of anywhere in the administration where an indepth cost analysis of the 25,000 troop commitment has been made? And if so, where might we get it?

Secretary CHRISTOPHER. Senator, it is characteristic of you that you have probed this and thought it all the way through. Let me answer it as best I can, and I hope not in an argumentative way.

#### BOSNIA—ESTIMATES OF RESOURCES REQUIRED

There is no peace agreement yet in Bosnia. We do not know the shape or the contour of it. Consequently, I think it is impossible to make a judgment about the number of troops that might be required, U.S. troops or other troops. It will have to be an overall NATO operation, as I said. The United States has indicated that, at most, it will provide less than one-half the troops.

But I do not think you can make any reliable estimate at the present time as to how many troops it would take. The fact that there has been an agreement between the Croats and the Bosnians, and that it seems to be functioning, may well diminish the number that could be necessary.

But that having been said, Senator, I think that you will find that our Department of Defense has done a good deal of planning for this contingency, and there may be figures in the Department of Defense that cost this out or price it out. It would, of course, be in the context of not knowing for certain what might be required.

Let me add to that, Senator, that we understand and the President understands, that this would be a major U.S. commitment, and that is why he has made it clear that he would seek congressional concurrence before going forward with this. There are a number of conditions for United States involvement in a peacekeeping endeavor in Bosnia. We have listed six or seven commitments that I could run through if you like, but one of them, and one of the most important ones, is that there be congressional concurrence. So this would all have to be debated.

The numbers I do not think are as large as you indicate, but certainly they would be very large numbers. At the present time, I do not think you can predict exactly how large. But we ought to be getting ready for that. Certainly, as we get closer to the implementation of a peace agreement and closer to seeing how we might get

out and get in, I think it is very prudent to be analyzing just how much it would cost and where the money would come from. I really commend that effort and, as I say, I think that if those numbers have been worked out, it would be at the Pentagon.

Senator DOMENICI. Well, Mr. Chairman, I just raise it today and I know of your concern about the Defense Department's budget commitment. And it seems to me that if we do not insist—and maybe it is our committee, maybe it is the Armed Services Committee. Maybe what we ought to do is—so we are not put in a position that the President has made a commitment to get an agreement and what are we going to do? Are we going to sit around here and say we are not going to do that? We ought to get the facts on costs, as soon as we can, so that we can begin to understand what the commitment is in terms of the rest of our Defense Department.

I have a couple more when you are finished.

#### PEACEKEEPING—HUMAN COSTS

Senator HOLLINGS. Well, of course the one thing, Mr. Secretary—and I do not see this coming through in some of the other hearings, but human costs of involvement itself. It exists as a four-way test. And we have not responded to that, we are not being asked, but diplomatically bluffed. How in the world do you answer that question on that mother test?

But there was not any discussion on the floor of either House of Congress. There was not any 15 days—you are talking about the authorizing committees, 15 day requests of any kind that mentioned it. And if you are not able to answer it intelligently or meaningfully—although I know how these happen.

When they talk, for example, of the number of troops—we had over eight divisions in Vietnam, and they dressed as schooled troops like they are in Yugoslavia. I was there when Tito was President. He gave us a training and we went on up to Belgrade to his place in northern Yugoslavia. And I can tell you now, early in the morning we were awakened at 5 o'clock by the noise of the troops drilling. And historically this has been going on now. They have killed 200,000.

When it comes to peacekeeping, they have harassed us. They have taken peacekeepers hostage, and everything else of that kind. So I understand the intent is good, but we are back now to the bottom line on your own desk which we have not complied with. And I would hope that we would ask and we would repeat, and then there would be a sobriety around there. Because this thing of NATO, United Nations, and we have got NATO and United Nations asks of NATO, and that is a mechanism.

And that is all procedural; that is not policy. Policy has got to be done by the Congress itself. And I had the impression, listening to a former Senator from Oregon call President Johnson a murderer each day—I got two golden gavels for 200 hours listening to that from 5 o'clock to 10 o'clock every night while presiding in the Senate. I was assigned to preside, and just the Senator from Virginia and myself, we filled in and swapped evenings.

## CUBA AND RADIO TV MARTI

Specifically with respect to Cuba and Radio TV Marti, we had a special advisory panel and they endorsed the effort being made there. They recommended that TV Marti be turned over UHF and it would be more extensive and be more effective. And, in contrast, they said that to discontinue this particular communications effort would be a propaganda victory for Castro. And you agree with the panel's report, of course?

Secretary CHRISTOPHER. Senator, I think that Radio Marti has served a real purpose, and I hope that TV Marti can serve an equal purpose. Up to this point it has not been very cost effective, but I hope it can be in the future. So I would support that result.

Senator HOLLINGS. Yes, sir; talking about Cuba, can a word be said about the health of Castro at home?

Secretary CHRISTOPHER. Senator, I saw that report this morning. We do not have any confirmation. He may have had some serious illness recently. I am probably right where you are, seeing a press report but do not have any confirmation on it.

## SOMALIA AND OTHER EMBASSY CONCERNS

Senator HOLLINGS. What about the situation in Somalia? We still have the Embassy there in Mogadishu, and I do not want to see another Tehran experience. We did not leave there as the most popular outfit in the country, and that could diminish with respect to the politics that go on in a country of that kind. And we have got an Embassy which could become a hostage. What about it?

Secretary CHRISTOPHER. Senator, we are keeping a very close eye on that situation there. We think our liaison office is secure at the present time. But this takes me back to another comment you made, Senator. Americans serving abroad in the foreign service or under NATO command are at risk. It is a dangerous world. There is always a balance in any country where there is a lot of bloodshed and violence. Do you pull out your people and give up or do you stay on and try to keep security with a Marine guard or whatever. You are constantly making such decisions.

We try not to run prematurely away from danger, but in certain instances we are having to close our Embassies, as we did in Rwanda. Fortunately, under the leadership of a very good Ambassador, David Rawson, we were able to get all of our people out. But that is a knife-edge decision frequently, and we will be weighing that decision in Mogadishu if conditions there seem to threaten our people.

Senator HOLLINGS. Well, as you and I both know, we had to give up and get out of Somalia. The Embassy contingency in there is trying to feed the hungry, or are they?

Secretary CHRISTOPHER. No; the liaison office is there in order to provide us information of various kinds on what is going on within the country.

Senator HOLLINGS. But we have got a track record in some of the countries, and that is what bothers me.

Senator Domenici.

## STATUS OF INSPECTOR GENERAL PROPOSED FOR UNITED NATIONS

Senator DOMENICI. Mr. Secretary, Senator Hollings and I, at my request, have put a condition in the appropriation bill for this year regarding an inspector general for the United Nations. Now, I am not just trying to be offensive about the United Nations, but there is enough alleged abuse of funds, sloppy bookkeeping, and probably much worse but I will stop at that, that I believe if it ever—if that ever broke loose all of this peacekeeping and U.N. funding would go out the window with the American people.

So I think it is imperative that you and the administration force the United Nations to understand that we cannot continue to pay all this money. They cannot run the business of the United Nations without any regard to proper use of the money we put in and proper management that we hope is in 1994 and not 100 years old. We withheld \$29 million of the budget until we get commitment that there will be an inspector general. Now, have these funds been withheld from the United Nations and do you know the current status of efforts to begin to force this on the United Nations?

Secretary CHRISTOPHER. I am told that those funds have been withheld. And I will say this, Senator; I strongly support the efforts of the Congress to get an inspector general at the United Nations. Ambassador Albright speaks about it with the Secretary General almost on a daily basis. I have done so several times and, frankly, this recent action is going to strengthen our hand. The action taken by the Congress is going to strengthen our hand in getting an inspector general. I welcome it.

Senator DOMENICI. And I might want to state in the record, so there will be no misunderstanding, that if \$29 million does not make any dent, you might tell your Ambassadors from around the world up there in New York that we will double it or triple it until they decide that we are serious about some reasonable bookkeeping and auditing of where they spend the money. And we are not trying to tell them how to do that. You understand that.

Secretary CHRISTOPHER. Thank you, Senator.

## \$29 MILLION WITHHOLDING: U.N. INSPECTOR GENERAL

The United States is still withholding payment of \$29.1 million to the U.N. regular budget pending certification by the Secretary of State that an Inspector General-like office has been established in the U.N. The withholding is in accord with the requirement in the State Department appropriations legislation for fiscal year 1994 (Public Law 103-121) that 10 percent of the funds appropriated for the United States assessed contribution to the U.N. regular budget shall be available only upon certification to the Congress by the Secretary of State that the U.N. has established an independent office with responsibilities and powers similar to offices of Inspectors General authorized by the Inspector General Act of 1978, as amended.

We are working at the U.N. General Assembly for a resolution that would establish a permanent and independent oversight office in the U.N., similar to an office of Inspector General. We hope to see the resolution passed this summer and a qualified individual appointed to head the office this fall.

## PEACEKEEPING COSTS

Senator DOMENICI. Let me give you, from the budget, a few details about my more general statement of a while ago about peacekeeping and what it might cost, and when what we might find out, to get it on record. For your 1995 budget, you have assessed peacekeeping operations in a split manner, in which the State Depart-

ment and Defense Department both share. Nonetheless, the request for the State Department is \$533 million, an increase of \$132 million, but the request for the entire activity of the Defense Department is \$300 million.

Now, that is not even a down payment on what it would cost if we put 25,000 troops in. I see no contingency around. Might I ask, first, what is the philosophy of governance reason for deciding to split and having the Defense Department pay for part and the State Department pay for part?

Secretary CHRISTOPHER. Senator, the philosophical or logical basis on which that split was made is the Chapter VII, which is the more robust kind of peacekeeping which was thought to be an appropriate responsibility of the Defense Department. This is the shared responsibility concept. In many ways it was governed, Senator, by whether or not there would be American troops or combat troops involved.

#### PEACEKEEPING COSTS—SHARED RESPONSIBILITY CONCEPT

As you know, the basic shared responsibility concept is as follows. The Defense Department will be responsible either for chapter VII endeavors, of which there are now three—UNOSAM, UNPROFOR, and UNIKOM, or chapter VI where U.S. combat units are involved. So I think you can see, Senator, the underlying rationale for the concept. That is, where U.S. combat units were involved, it was appropriate that the Defense Department pay. When there is peacekeeping of a traditional character where U.S. combat units are not involved, and we are simply supporting other peacekeeping endeavors, that is the State Department's responsibility.

This division of responsibility is not written any place in stone and you could argue it different ways. It simply seemed to the President that that was a fair allocation of responsibilities between executive departments.

Senator DOMENICI. Let me, for the record, state that I asked the question the way I did because I, frankly, did not think there was any logical reason or philosophical governance reason. I think it is because it is perceived that the Defense Department has enough money to do it and the State Department does not. Maybe that reason is sufficient.

But I want to also say that I do not think the Defense Department, based upon what we are seeing in terms of cuts, has an open-ended availability of money for this kind of activity either. So, again, I get back to some new policy decisions on peacekeeping on how we ought to vote, as to where we are going to get funding to do this kind of thing.

#### FISCAL YEAR 1994 SUPPLEMENTAL

The supplemental that we are going to be asked to fund, which is one of the subjects we are discussing in here today, I gather that you agree that bookkeeping would indicate that there is about \$1.1 billion in arrearage by the end of this fiscal year for previous peacekeeping efforts that we owe money for?

Secretary CHRISTOPHER. That is correct, Senator.

Senator DOMENICI. My understanding is that the conferees on foreign relations are going to authorize \$670 million for additional

peacekeeping expenses for 1994. And I think you might have told us that in your statement.

Secretary CHRISTOPHER. Yes, Senator.

Senator DOMENICI. How does the administration intend that Congress fund this shortfall? Are you working off the premise that there is still some headroom in the allocation of funds for all of Government that might be used up just for this purpose?

Secretary CHRISTOPHER. Senator, if you attended the meeting I did at the White House the other morning where a number of Senators and House Members were present, you will remember that this subject was discussed at some length. I thought there was a very constructive attitude which I greatly appreciated as an effort to deal with this arrearage.

I really think it would not be appropriate for me to try to indicate to the Congress exactly how those funds would be dealt with. Frankly, I was impressed by the way it was approached by the Congress. It seemed to me to be a very responsible approach. But if you will permit me, Senator, I will not go further into speculation as to exactly how Congress intends to develop those funds.

#### PEACEKEEPING ASSESSMENT

Senator DOMENICI. The President has endorsed, I think after a lot of pressure from Congress, a reduction in our assessment for peacekeeping from 30.4 percent—last year it was actually 31, almost 32 percent, to a 25 percent assessment. Do you know whether a formal notification has been made by the State Department to the United Nations on that? And if we have not, when are we going to do that?

Secretary CHRISTOPHER. I think we have notified them of that. I think I am correct, Senator, that that is a target we have to achieve by 1996.

[The information follows:]

#### CHANGES TO PEACEKEEPING ASSESSMENT RATE

We have informed the U.N. Secretary General that we wish to lower our peacekeeping rate of assessment to 25 percent. In addition, we have informed other member nations of our intentions through their missions to the U.N. and through our embassies to other countries ministries of foreign affairs.

Senator DOMENICI. Do you know what the reason was for the United Nations unilaterally raising our assessment for peacekeeping?

Secretary CHRISTOPHER. No; I do not, Senator.

Senator DOMENICI. I think it would be interesting to know. Maybe there is a good reason.

Secretary CHRISTOPHER. Assistant Secretary Sherman tells me that it is the indirect result, of the breakup of the Soviet Union, which I thought was the case.

[The information follows:]

#### BASIS OF PEACEKEEPING ASSESSMENT RATE

The peacekeeping assessment rate for all countries is derived from the regular U.N. budget assessment rate which is recalculated every two years. For 1993-94, the U.N. recalculated peacekeeping assessment rates took into account the breakup of the Soviet Union which means that the Russian rate excludes assessments from former Soviet countries that are now being separately assessed. This caused the rate

to increase for all permanent members of the Security Council (Perm-5) except the former Soviet Union because the current system requires the Perm-5 to absorb the discounts granted to less economically developed countries.

Senator DOMENICI. Could I ask one additional question and then submit about 10 or 12, Mr. Chairman?

Senator HOLLINGS. Yes.

Senator DOMENICI. I will submit the rest of them for the record.

#### CHINA

Could we speak a moment about your trip to China?

Secretary CHRISTOPHER. Yes, sir.

Senator DOMENICI. My understanding is that the administration's policy is that—and I quote—only limited progress, quote, on human rights will be necessary before renewing most favored nation for China. What is the definition of "limited progress?"

Secretary CHRISTOPHER. Senator, that is not correct. If I may, last May an Executive order was entered into by the President of the United States, which, of course, becomes the law of the land. At that time the Executive order was, I think, rather widely endorsed by Members of Congress, as well as by people in the business community, as being the best possible approach to a very strong attitude in Congress that something needed to be done about human rights in China.

As you know, there were two bills that were passed in both Houses of Congress only to be vetoed by President Bush. These were much tougher than the Executive order. Now, the Executive order says that the renewal of MFN will depend upon whether or not I recommend that the President conclude that there is significant overall progress in human rights in seven categories that were then listed in the Executive order. That continues to be the test that is going to be used by me in making my recommendation to the President. Upon the basis of that, the President will decide whether or not to renew MFN.

That standard has not changed. There has been considerable progress on some of the criteria. The two mandatory criteria have substantially been met. We are hoping that in the 5 or 6 weeks that remain, the Chinese will make enough additional progress in those seven rather discrete and limited areas, in order to justify the renewal of MFN.

It is limited only in that sense, Senator. We are not talking about a radical transformation of the Chinese Government. We are talking about progress in these seven categories, which are part of the universal declaration of human rights and really is the way that China treats its citizens.

Senator DOMENICI. Well, Mr. Secretary, again it falls to this committee to pay for some of these activities, so we are involved in things even like MFN for China. It seems to me that what you are saying—at least as an outside observer—does not quite mesh up with what we heard coming out of China on your visit and your return. It seems like the Chinese officially said they were not going to do what you asked them to do. So I wonder, is that not the right impression? And if so, did you ask them to do more than these seven principles, since you appear to be more optimistic on their

getting there than the stories coming out of China seem to have been.

Secretary CHRISTOPHER. Senator, I talked with them about the seven criteria and told them of the improvements that we felt ought to be made in those seven criteria. They did something that they have been doing throughout all my conversations about that subject; they say we will not talk about human rights, we will not link them in any way, and then they say now let us talk about them. So we kind of have that duality in the situation.

There was an inaccurate story that came out of China, a totally inaccurate story indicating that only limited progress was necessary. That came from a briefing that I gave to the American business community there, which is, I think, very strongly against any linkage. What I told them, trying to be encouraging, was that we were not asking for a transformation of the Chinese Government; we were asking for progress in these seven discrete, important areas, important in the way that the Chinese Government treats their citizens.

So I would have to say that more progress was made on that trip than was reflected by the stories, and we will have to see whether over the next 6 weeks enough additional progress is made so a positive recommendation can be made to the President. I hope it can be. None of us want to revoke MFN or even diminish it. At the same time, I think we are bound by carrying out the Executive order which, as I say, was a widely heralded compromise about this time last year. But now, when we are having to live up to it, it does not seem so easy.

Senator HOLLINGS. Well, Mr. Secretary, historically it has been a very sensitive point with respect to China and the Western World telling them how to live and what to do. And being the devil's advocate, you could just say if you were running a country of 1 billion, and took comparisons. Well, you can see what they do in Singapore today on human rights. You can see what they do in the Mideast—they cut off hands if you steal. And there are certain forces that we would not agree with in our society at all.

But by the time over there and before you got there—you know, my competition is this K Street crowd down here of lawyers and consultants and special reps. And before you even landed, they said do not worry about it. But we find that in the trade talks, we find that in open diplomacy, which you conduct with respect to China, and you have got to be sure, in that light, that you use the right tools. If you have got to talk about most favored nation, apply it. And all the other countries will come in and take the business. And that is what the consultants and the lawyers downtown are telling their contacts in China.

So what we should be doing is use a proper tool, not MFN, but super 301, which does cover human rights, labor rights, and apply it and get the Criminal Division of the Justice Department going with \$2 billion countershipments in textiles alone, which I credit the previous administration with doing. And the customs have told us it is not \$2 billion; it is in excess of \$5 billion. So we can be enforcing our own trade laws, enforcing our own trade super 301.

And not saying, the Secretary of State, or hoping to say we are going to stop trade, when that is not going to happen. You can see

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that at the White House yesterday. We are not going to stop trade. We ought to look realistically at it, and that lawyer crowd that calls ahead and tells before you get there the position to take. But I am not a bit surprised at that one.

But we really appreciate your appearance here this morning. We do have a stack of questions here.

A lot of the other colleagues had to go to another hearing with respect to Jim Woolsey and the Secretary of Defense. But reminding me, now Senator Domenici and I meet each other coming around the corner on the Defense budget. This is the Commerce, Space, Science, Transportation committee room. And science, we go over to the—we do not get enough out of the National Science Foundation, the National Institute of Standards and Technology. We have to go to Defense to get research money.

We have Coast Guard hearings. We do not get enough money for the Coast Guard, so we depend on 050 funding from the Department of Defense. Now, we do not get enough money for peacekeeping, but Defense backs up money, billions. You can see the problem that we have is a serious one.

But we could not thank you enough, Mr. Secretary. I think you are doing an outstanding job.

Yes, sir.

#### NORTH KOREA—NUCLEAR CAPABILITY

Senator DOMENICI. Mr. Chairman and Mr. Secretary, I do not know that I would expect a lengthy answer, but we have been talking about the United States taking a position with reference to what other people might be doing. This morning, I understand that Secretary Perry spoke about North Korea and said that they were very close to removing enough plutonium from their reactors to build—and I think I am right—four to five nuclear bombs.

Mr. Secretary, I cannot urge any stronger than I will right now that this is an issue that Republicans want to support our President on, what to do about that. But, frankly, I do not believe we ought to get into situations like we are in Bosnia where we go back and forth and back and forth, and we threaten and then we do not threaten.

I think somebody had better put a policy together on what we intend to do about this, come up here and get the Members from both sides to support it, because this is a serious one for us in the world and we do not want to be—I speak for myself, but I sense Republicans do not want to be on the outside just working against the President. So I would clearly urge that this be done in a manner that could get the best kind of response from all of us, because I think we want to be responsible. But we cannot be ambivalent and we cannot support what we do not know. And I cannot tell you any more strongly than that. It concerns a lot of us up here.

Secretary CHRISTOPHER. Senator, that is a very serious problem and no one, I think, takes it more seriously than I do.

I wonder if I could just at least briefly correct what I think Secretary Perry said. I read a full recount of what he said. What he said was that the North Koreans are going to be refueling the nuclear facility that they have there, and if they were to take plutonium, which needs to be refueled, and to reprocess it, that that

might provide enough weapons grade plutonium for four or five nuclear weapons, if it were properly reprocessed.

But what is also true is that yesterday the IAEA was told by the North Koreans that they would permit a representative to be there to watch when they unloaded the fuel from a nuclear reactor, apparently to give us an opportunity to ensure that it is not reprocessed. Now, I am not a technician, but the technical people that I talked to this morning found encouraging the fact that the North Koreans have said you can have somebody present to watch when they take the fuel rods out, to ensure that they are not going to go forward with the reprocessing that worried Secretary Perry.

But on your underlying question, Senator, that is a very serious problem, we need to have a bipartisan approach to the problem. There is no simple solution. As you know, military solutions in that particular situation have a number of consequences, and we will want to consult very closely. And I am sure when Secretary Perry comes back from his meetings with the South Koreans, we will be having meetings here on Capitol Hill about it.

Senator DOMENICI. Thank you, Mr. Chairman.

Senator HOLLINGS. Yes; thank you very much.

The criticism has been, Mr. Secretary, that this administration does not have a foreign policy. But as I understand it, the foreign policy is to keep us out of war in North Korea, and keep us out of war in Bosnia, and keep us out of war in Haiti, and all these other places around the globe. And I support that foreign policy. Until we hit some real national security interest, we ought to be very very careful, and get back to the Christopher four-way test for military involvement.

#### ADDITIONAL COMMITTEE QUESTIONS

We will leave the record open so that some of the members who could not be here today can submit questions, along with myself and Senator Domenici.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

# QUESTIONS SUBMITTED BY SENATOR ERNEST F. HOLLINGS

## Question:

1. When I travel to State posts overseas, I keep hearing complaints from ambassadors and State personnel regarding the large number of personnel from other Federal agencies, and the inability of the State Department to support them. In Venezuela, Ambassador Davidow told me that he had told the Federal Aviation Administration (FAA) and the Internal Revenue Service (IRS) to move their people back to Miami. In Bolivia, Ambassador Bowers told me that he has only 20 personnel at the post who conduct full-time State Department work. And the U.S. mission has over 1,000 personnel and contractors.

- A) What is your appraisal of the situation? Can the "National Security Directive 38" process be used more effectively by ambassadors to reduce presence by other agencies?
- B) Have you reviewed the current Foreign Affairs Administrative System (FAAS) to see if there is a more equitable way to allocate costs between agencies?
- C) Are you backing up ambassadors like Davidow at headquarters when agencies like FAA and IRS complain?

## Answer:

(A) All Chiefs of Mission are charged with examining the staffing at their posts in light of U.S. foreign policy goals and objectives, and making appropriate recommendations to Washington based on their conclusions. The cost-effectiveness of all elements of their missions are to be examined as well. I believe that NSDD 38 provides a useful tool for ambassadors in making sure that we have the right mix of people doing the right work at all of our embassies and consulates overseas. I also think that this tool is being used as effectively as it can be now.

While I appreciate the compliment to State Department leadership implicit in your question, I also believe that other agencies often play a key role in providing the services and carrying out the programs that help the entire U.S. Government achieve its goals in any given country or region. It is true that the State Department accounts for about one-third of all staffing at all embassies worldwide, and in many cases that

ratio is not the right mix for the tasks at hand. In those cases we rely upon our chiefs of mission to propose changes.

(B) Mr. Chairman, within the FAAS system most of the overall cost burden falls on the State Department. As the "conciierge" of the foreign affairs agencies, we pay over 60% of the costs involved, even though we have only about one-third of the people at our overseas posts. The FAAS system was designed over 17 years ago when budgets were more generous and total USG overseas presence was smaller. And as administrative support costs have greatly expanded over the years, our ability to sustain our large share of those costs has diminished.

The Department has sought and continues to seek a more equitable arrangement in the division of these costs with other agencies. We have not been successful, and we frankly need the support of this Committee and you Mr. Chairman in convincing the other agencies and other oversight committees of the Congress to support changes in the FAAS structure which will both sustain our total overseas operations effectively while sharing the burden equitably. I appreciate your interest in this issue, and will not hesitate to seek your future assistance in trying to resolve it.

(C) I fully support our ambassadors in the field when they make reasonable staffing proposals based on a clear linkage with policy priorities. Allocating all of our scarce resources on this basis is one of the key goals of this Administration. The only area where I have modified the NSDD 38 process involves offices which provide regional services, whether they be State Department or other agency offices. In those cases the chief of mission's bilateral perspective may need additional input from the Department in order to consider the issues from a regional or global perspective. The revised procedures, which still safeguard chief-of-mission authority, do just that.

## MOVE TO BERLIN

Question:

Please provide a status report on the Department's Plans to move the Embassy in Germany to Berlin.

Answer:

We are pleased to provide a status report on the Department's planning efforts to move the U.S. Embassy from Bonn to Berlin. We would also welcome an opportunity in the near future to brief you and your committee in greater detail on our efforts in this area.

While considerable planning has been completed to relocate the Embassy to Berlin, until the German Government articulates its detailed plans, our efforts, by necessity, will be limited. To date, the Embassy in Bonn and the Department have developed the projected staffing pattern in Berlin. Planning for a chancery in Berlin has received attention as well. A design competition is in the initial stages, while a considerable amount of work has been done with the German authorities to resolve site planning, security, and zoning issues.

The Department recently concluded successfully property exchange negotiations with the German Government. This comprehensive exchange agreement, when fully approved and implemented, will assure that the USG's residential, logistics, and maintenance real property requirements in Berlin have been satisfied for the foreseeable future.

Finally, the Department is pursuing, in conjunction with the Embassy in Bonn, the identification and disposal of USG-owned properties to help fund the cost of constructing a new chancery.

Despite the German Government's uncertainties regarding the timing of the relocation, the recently negotiated property agreement with the Germans gives us the flexibility to move our Embassy to Berlin when we are ready.

Question:

How much do you estimate it will cost to build a new chancery building on the Pariser Platz?

Answer:

At this point in the planning process, it is too early to provide an accurate estimate of the cost to build a new chancery building in Berlin. Until a functional space requirements program has been completed, a true estimate is not possible. For planning purposes, however, we envision construction of a chancery office building of approximately 175,000 square feet at a cost in the range of \$75 to \$100 million. We plan to propose a reprogramming of \$5.877 million this fiscal year to begin the design process.

Question:

Will this be the only construction requirement in Berlin?

Answer:

At the present time, we do not anticipate additional new construction requirements in Berlin. We already have acquired, or will be acquiring through implementation of a property agreement, other facilities such as the ambassador's residence, staff housing, warehousing, and other General Services buildings. Therefore, a new chancery building would be the only significant new construction requirement anticipated in Berlin.

Question:

Aren't any excess Department of Defense Facilities available? What is the square footage and location within the city?

**Answer:**

There are several military facilities in the city of Berlin which are to be vacated as a result of the military departure from Berlin in the Fall of this year. The most notable are: Clay Kaserne, the current headquarters of the Berlin military command; the DEH Compound (Department of Engineering and Housing), a large maintenance/logistics complex; and McNair Barracks, a portion of which was offered to the USG for use as a logistics and maintenance complex. These facilities are located in the primary residential south central portion of the city of Berlin. All of these facilities, while used by the Department of Defense, are owned by and revert to the German Government when the military withdraws. The Department of State has reached tentative agreement with the German Government to use selected properties which meet our needs.

Clay Kaserne: This facility is being turned back to the German Government. It consists of about 19 acres of land with an area of about 500,000 square feet of office/logistics space. The Embassy Consular Section now occupies a portion of one wing of Building II of Clay Kaserne. As part of the tentative property agreement, the German Government has offered the USG the use of the remainder of the 135,276 square feet of Building II for temporary Embassy use should it be required pending the completion of the construction of a new chancery in Berlin. When the new chancery is completed all of Building II will revert to German Government control. (Note: It was available; we did not request it.)

McNair Barracks: The USG requested and the German Government made available to the USG a portion of the maintenance and logistics complex from this Barracks. Our portion consists of four buildings on a 75,000 square meter

site under a 99-year no fee, use agreement commencing January 1, 1995. The agreement contains an option for another 99 year period at then market rates.

The DEM Compound: This is a 12.5 acre site with about 310,000 square feet of office and logistics space. The German Government has announced plans to turn the compound over to the City of Berlin for its use.

Question:

What are your plans for the large Embassy complex in Bonn? Will you be able to swap or sell some of the property to the German Government?

Answer:

Negotiations between the United States Government and the Government of the Federal Republic of Germany concluded on March 18, 1994, following two years' of intensive effort. Once the agreement is approved, the USG will have been successful in obtaining 156 residential housing units in Berlin, an ambassadorial residence, a 25,000 square meter maintenance and logistical complex -- all on a 99-year no fee for use agreement -- plus the use of a portion of Clay Kaserne and the continued lease of the Berlin office building, its annex and the adjacent parking lot until the new chancery is completed.

We will obtain these properties by transferring to the German Government fee simple ownership of 156 residential properties, five industrial buildings and an office building in Bonn. In addition, the USG will extinguish its leases and options to purchase various properties in the former East Berlin. The USG will retain the remainder (about 50%) of the Bonn-Plittersdorf complex which is owned in fee simple. The

German Government will be offered the right of first refusal to purchase the remainder of these Bonn properties at fair market price if and when the USG decides to dispose of them.

The Bonn chancery was obtained from the German Government in the 1950's under a long-term usufructuary agreement. According to the terms of this agreement, the Bonn chancery reverts to German ownership, without compensation, 60 days after the new Berlin chancery has been completed. Our agreement with the German Government allows retention of approximately 30% of the Bonn chancery for up to five years after the Berlin chancery has been constructed under the same usufructuary terms. This will provide planning and moving flexibility, while meeting our office needs in Bonn during this transition.

In summary, the USG traded Bonn properties held in fee simple and some East Berlin property interests for more valuable Berlin properties to be held under a 99-year no-fee use agreement. There is an additional 99 year option period which, if exercised, would compensate the German Government at then market rates.

Separate and apart from these negotiations, we are pursuing actively the sale of several individual properties in Germany to help offset the chancery construction and other costs to the extent possible. The major parcel is the 38-acre radio antenna site, near Tempelhof airport. It is the Department's intent and goal to realize sufficient proceeds from these proposed sales to preclude the need for additional appropriations to fund the construction of the new chancery, though it is not clear whether that goal can be fully achieved.

**Question:**

What is the impact of prohibitions legislated in the FY 1994 National Defense Authorization Act?

**Answer:**

According to Section 1432, American Diplomatic Facilities in Germany, the USG is prohibited from purchasing, constructing, leasing or occupying any facility as an embassy, chancery, or consular facility in Germany unless that facility is purchased, constructed, modified, or leased with funds provided by the Government of Germany as an offset for the value of facilities returned by the USG to the German Government pursuant to Article 52 of the Status-of-Forces Agreement. The National Defense Authorization Act states that the Secretary of State may not enter into any legal instrument to purchase, construct, modify, or lease any facility until the Secretary of Defense certifies to the appropriate Congressional Committees that the USG has received or is scheduled to receive cash payments or offsets- in-kind of a value not less than 50 percent of the value of the facilities returned by the USG to the German Government.

Since this Act does not apply to facilities acquired or occupied prior to January 1, 1995, it appears that little impact will be felt on the properties acquired in Berlin through recent negotiations with the German Government. However, since the chancery in Berlin is only now in the conceptual planning phase, this Act would clearly prohibit chancery construction in Berlin without the required Secretary of Defense certification.

**Question:**

The State Department's Repatriation Loan Program provides loans to purchase airplane tickets for destitute Americans who are stranded overseas. It is a loan program not a grant program.

Yet, I was surprised to learn that the default rate on these loans is 80%. Eight out of ten people are treating the program as an entitlement and are refusing to pay back the Department of State.

Mr. Secretary, given this is the case and so many people are proving to be ingrates and are stiffing the government, what would be your view if we just zeroed out the appropriations this year as the House of Representatives proposed last year?

Answer:

The Appropriation for the Department's Repatriation program should not be zeroed out. For almost 50 years, this program has been one of the keys to the U.S. Government's ability to assist its citizens overseas. The program aims to protect indigent Americans from possible incarceration abroad and to prevent them from becoming public nuisances, possibly causing embarrassment to the U.S. government or harming U.S. foreign policy interests. The help we provide to destitute Americans overseas acts as a bridge to federal and state social services in this country and is one of the Department's major tools for protecting Americans abroad. This program also assists with emergency medical evacuations, returns American children abducted by foreign parents, and rescues Americans from major disasters and crises abroad. The U.S. public expects the U.S. Government to be able to assist private U.S. citizens to depart countries from which we were evacuating the official American community.

Repatriation loans are provided to assist destitute Americans abroad who have no other source of funds. They are loans of last resort. Most recipients are not credit-worthy. We make them only when we have exhausted efforts to obtain funds from relatives in the U.S. All loan recipients are required to sign a promissory note and their U.S. passport is limited for direct return to the United States. The Department is also required to withhold the issuance of passports to persons in default on repatriation loans. Repayment is

expected. The Department uses several methods to collect delinquent loans. These include installment payment plans, collection agents, and Internal Revenue Service refund offset. Under normal commercial loan situations, these methods would be effective. However, due to the financial status of the loan recipients, recovery rates remain low and we do not anticipate that they will improve.

The overall impact of this program is very positive as the essential needs of citizens in distress are met. Citizens are assured of receiving urgently needed medical care, food, shelter, and transportation, if they cannot provide for themselves.

Question:

4. The only real programmatic increase in your operating budget is \$25 million for information systems upgrades. As I understand it, the Department of State's information systems are antiquated. You have computers systems that are unable to interact with modern "open architecture" systems.

- What is the total cost of the information system modernization program? How many years will it take? When do you expect to go forward with a solicitation?
- Will the new visa fee program that is being addressed in the authorization bill be used to procure some of these systems?

Answer:

The Department has developed a plan to modernize our information management systems that will require an additional \$210 million over a seven year period to implement. This includes all infrastructure elements, including telecommunications, mainframes, information systems and radios. Our FY 1995 budget request of \$30 million will allow us to begin this process. Cost validation is a continuing process based on updated inventories and revised price estimates.

The MRV (Machine Readable Visa) fee program will provide funds to be used for expanding the use of automated lookout and machine readable visa systems; improving U.S. passport security measures; and extending telecommunications lines in support of overseas consular operations. These projects are not included in the Department's programmatic increase for information systems upgrades.

**Question:**

5. During last year's hearing, we talked about staff reductions at large overseas posts and the closure of 20 consulates that had been put forward by Secretary Eagleburger and the previous administration.

- A) Besides Grenada, how many embassies and consulates have been closed or proposed for closure by this administration? How many positions have been reduced either through post closures or post cutbacks?
- B) Will you be proposing any further closures?
- C) We just evacuated the embassy in Rwanda. Why not leave it closed? If peace ever is restored to that country, why not just service Rwanda from Tanzania or Burundi?

**Answer:**

A) After additional consideration, we have decided not to close our embassy in Grenada. In the past year, we have closed two embassies (Honiara and Moroni), and 12 consulates (Alexandria, Douala, Genoa, Izmir, Maracaibo, Martinique, Mazatlan, Mombasa, Oran, Palermo, Salzburg, and Songkhla). We have also closed our Branch Office in Geneva. This fiscal year we anticipate closing our embassy in Antigua and our consulate in Kaduna.

Post closings take place in the larger context of our "rightsizing" efforts to shift our limited -- and declining -- resources to the highest priorities. We cannot give a specific number of how many position cuts post closings and cutbacks have produced, because there is no one-to-one linkage.

# Reductions at large posts/post closures

"Rightsizing" will permit us to live within the budget limits already set and to meet the President's Executive Order cuts.

B) We continue to consider post closings on a case-by-case basis for both policy and financial reasons. Decisions to close reflect the fact that modern communications and transportation facilities make keeping these posts open less compelling when compared with other, more urgent priorities. We do not, however, have any definite post closing plans beyond those already scheduled.

C) Our goal is to maintain the widest practicable distribution of posts. There is no need, however, to have an American Embassy in every country. In considering whether to close a post, we must match our resources with policy priorities.

The United States has important humanitarian interests in helping the Rwandan people after a mutually respected cease-fire is established. We will need a diplomatic presence (albeit smaller than before) to launch humanitarian relief efforts in the country and to initiate an objective, international inquiry into human rights abuses.

## Question:

6. In January, during consideration of the State Dept. Authorization Bill, Senator DeConcini was very critical of the amount of security that you carry along when traveling overseas.

Looking at your budget, it appears that the Department has made some reductions in the number of personnel in the Diplomatic Security Bureau. In FY 1993 you had 948 people in the bureau and now you're at 856.

Could you speak to this issue? How should I respond to Senator DeConcini, who has oversight for Presidential Security through his Treasury Postal Service Appropriations Bill?

**Answer:**

At my request, shortly after I took office in early 1993, the Bureau of Diplomatic Security undertook a thorough review of my security arrangements. This review resulted in eliminating six agent positions from my detail. And, through greater reliance on Regional Security Officers stationed at our embassies, the number of agents required for protection when I travel abroad also has been reduced. As a result, the cost of the Secretary's Detail declined from \$3.3 million in FY 1992 to \$1.2 million in FY 1993. Because of my heavy travel in recent months, the figures for FY 1994 will undoubtedly be higher.

Since July 1993, the Bureau of Diplomatic Security has eliminated over 90 positions, at least half of which were in domestic field offices. A detailed zero-based review of DS programs was accomplished in 1993, resulting in the elimination of low-priority activities and the consolidation of duplicative functions. Top management has devoted considerable attention to refining priorities to reflect both the post-Cold War climate and a leaner fiscal future.

**Question:**

7. There is a recommendation in the National Performance Review which I don't understand. It recommends that you reduce Marine Security Guards at embassies overseas and replace them with contract guards. Last year the Administration sent us a \$600 thousand rescission for Fiscal Year 1994. As I understand it, State currently reimburses the Marine Corps for support and related expenses, but not for the pay of the Marine Guards. Pay is already budgeted for in the Defense Appropriations Bill. Now, when the Department of State hires contract guards instead -- the full cost of these employees, including salaries has to be borne by the Department of State. So, the Marine Corps gets back its Marine and the State Department hires a replacement. So by my calculation, the Federal Government ends up paying for two people instead of one. Please explain to me how this effort to "reinvent government" saves money? Does it even make sense? -- Except for that Sgt. Lonetree incident --- I was always under the impression that Marine Guards do a pretty good job protecting embassies.

**Answer:**

Marine Security Guards (MSGs) provide excellent security services at designated U.S. diplomatic and consular facilities to prevent the compromise of classified material and equipment and to provide protection for U.S. citizens and U.S. Government property. At 11 lower-threat posts the Department of State is currently eliminating MSG detachments, in accordance with the Vice President's National Performance Review.

Prior to a detachment deactivation, a survey is conducted to determine if any additional physical and technical security is required in the absence of Marine Guards. In some cases local guard service augmentation may be required to fulfill some of the daytime access control responsibilities formerly handled by the Marines. The extent of this service is limited to business hours only, and the cost is modest compared with the overseas support costs for 24-hour Marine Security Guard presence.

Thus, deactivations will realize savings both in terms of money and in the number of Marine personnel required by the Department. However, some of the dollar and personnel savings will be used to meet new detachment requirements at higher-threat posts, including new posts in the former Soviet Union and Asia.

**Question:**

8. The budget requests \$11.2 million for American cost-of-living adjustments assuming a 1.6 percent increase for 1995. \$8.7 million is requested for Foreign Service National wage increases.

- A. What percentage cost-of-living increase for Foreign Nationals does the \$8.7 million represent?
- B. What would be the adjustment for Foreign Service Nationals if they were held to the same 1.6 percent increase provided to American employees?

**Answer:**

- A. Our requested increase for anticipated FY 1995 Foreign Service National wages is based on an estimated average overseas inflation rate of 5 percent, and represents a 3.8 percent increase over the estimated FY 1994 FSN salary base. Much of this increase will be used to fund pay adjustments in high-inflation countries. In some instances, local law mandates pay increases with which we must comply (along with all other employers).
- B. The cost-of-living adjustment estimated for Foreign Service Nationals is based on the overseas inflation rate and is consistent with the 1.6 percent to be provided to American employees.

**Question:**

9. After the Asia Pacific Economic Council (APEC) meeting was held in Seattle, The Department proposed reprogramming \$2.3 million to reimburse the City of Seattle which hosted the event.

- Are you planning to reprogram funds for Miami for hosting the Latin American Summit this summer.

**Answer:** In FY 1994 the Department reprogrammed \$2.3 million out of the Diplomatic and Consular Program appropriations to cover the Department's share of host country costs in support of the APEC Ministerial in Seattle. The Department's costs included the cost of conference rooms, communications, printing, supplies, ground transportation and other costs related to this event. Since there are no costs associated with the Summit of Americas in our FY 1995 Appropriations request, the Department would have to reprogram funds to support this event.

**Question:**

10. The President's list of 115 program terminations includes a \$4.3 million reduction for the Department of State's U.S. Bilateral Science & Technology Agreements. This program funds science agreements with Poland, Hungary, the Czech Republic and Slovakia.

All of those governments are demonstrating what they've learned from all those national endowment for democracy courses - they are all over congress lobbying against this program termination

- A) Could you provide the administration's rationale for terminating program?

- B) This program really is Foreign Aid and I'm not sure why it has been in commerce, Justice and State bill. Is it likely that these countries can or will obtain support for scientific programs through the Agency for International Development and the foreign operation appropriations bill?

**Answer:**

The science and technology (S&T) agreements were established to access world-class scientists and unique R&D assets in these countries, and to develop cooperation of mutual benefit. At the same time, they helped to encourage the adoption of more democratic approaches to developing and funding research. Since their inception, the S&T programs have been supported by "joint funds," e.g., U.S. annual funding has been matched by each country with an equivalent amount of national currency.

S&T cooperation with Central and Eastern Europe has had an impressive history of success which speaks forcefully for its continuance. Although resource constraints resulted in elimination of these programs as a separate line item from the FY 1995 State Department budget, we still plan to fund S&T programs. For FY 1995, we will draw on the SEED budget for that purpose and are working to assure S&T programs support SEED objectives, i.e., are consistent with the transitional nature of SEED assistance and promote political and economic reform in these nations, while helping strengthen their scientific and technological capabilities.

**Question:**

11. The Administration recently issued a new policy on international peacekeeping called "PDD 13" (sic). It recommended sharing peacekeeping funding between the Department of Defense and the Commerce, Justice and State bill.

-- Could you please elaborate on this policy and the distinction between Chapter VI and Chapter VII missions?

-- What is the Administration's gameplan to ensure that these funds are authorized and appropriated in the FY1995 Defense budget cycle?

**Answer:**

Responsibility for peacekeeping is shared by the Department of State and the Department of Defense. The Presidential Decision Directive "U.S. Policy on Reforming Multilateral Peace Operations (PDD-25) states that, unless the President determines otherwise, State will have lead oversight and management responsibilities for traditional (Chapter VI) peacekeeping operations involving the consent of the local parties and no U.S. combat units; and DoD would fund and have lead oversight responsibilities for all peace enforcement operations (Chapter VII), and for those traditional (Chapter VI) operations with U.S. combat units.

In all operations, State will remain responsible for foreign policy, the conduct of diplomacy, and for instructing embassies and our Mission to the UN. DoD will be responsible for military assessments and the NSC will facilitate interagency coordination.

Traditional peacekeeping operations involve the deployment of neutral military and/or civilian personnel with the consent of the state or states involved, and more recently, of all significant parties to the dispute in order to assist in preserving or maintaining the peace. These operations are often referred to as operations under Chapter VI of the UN Charter, which deals with the pacific settlement of disputes. "Chapter VII" operations refer to actions involving the use of force or the threat of the use of force, authorized by the United Nations Security Council under Chapter VII of the UN Charter, to preserve, maintain or restore international and security or to address breaches of the peace or acts of aggression. Such operations do not require, but may also involve, the consent of the parties involved. The inherent

right of UN forces to self-defense applies to both "Chapter VI" and "Chapter VII" operations.

The Department of Defense included \$300 million dollars in its FY1995 budget request to fund its share of U.S. peacekeeping assessments under the "shared responsibility" formula. The Administration is working with Congress now on legislation to create an account within DoD, equivalent to State's Contributions for International Peacekeeping Activities (CIPA) account, from which to pay these assessments.

Question:

12. Last week Madeleine Albright called me to advocate a UN peacekeeping mission for the Caucasus nation of Georgia. My staff tells me that this will add another \$80 million or so to the \$1 billion we already owe. But, it seems to me this peacekeeping mission may actually have something to do with U.S. strategic interests.

- a) Could you describe the effort that is being contemplated? How many peacekeepers are needed and what's the cost?
- b) Would this keep Russian troops out of Georgia, or would they be part of the United Nations' force?
- c) How many other former Soviet Republics do you anticipate requesting UN peacekeeping forces?

Answer:

We agree that a U.N. peacekeeping operation (PKO) in Abkhazia, Georgia, under the proper conditions and if properly constituted, would be in accord with our strategic interest in preventing further destabilization of the Shevardnadze government, and demonstrating international commitment to resolving conflicts in the former Soviet Union.

- a) The parties requested that a UN PKO have among its functions monitoring compliance with a ceasefire agreement and helping to facilitate the return of refugees. A need for 2,000 to 2,500 UN peacekeepers has been suggested.

In a May 3 report to the UN Security Council, the UN Secretary General stated that due to the failure of the Georgian and Abkhaz parties to agree upon a mandate and area for deployment for a UN PKO, he was unable to recommend that UNSC authorize such a deployment at this time. Until there is agreement on the size and mandate of the force it will be very difficult to provide a reliable cost estimate. For initial budget projections we used a first year estimate of \$90 million for the U.S. assessment for the operation.

b) We would not oppose Russian participation in a UN peacekeeping operation. However, Russians should constitute a minority of the force and the operation's commander should not be Russian. The Russians already have troops permanently based in Georgia with the agreement of the Georgian government.

On April 15, leaders of the Commonwealth of Independent States (CIS) declared that in the absence of urgent deployment of a UN PKO, the CIS was prepared to deploy peacekeepers. We believe the issue is best dealt with by the UN, and have been urging all interested parties to work to create the conditions necessary to deploy a UN PKO.

c) While there have been some suggestions that UN peacekeepers could be appropriate in other regions of the former Soviet Union, there have been no formal requests by any other Newly Independent State for a UN PKO, nor are there plans for any to be deployed.

#### Passport Fees

##### Question:

13. What would you think of instituting a surcharge on same day passport service and let your Consular Affairs Bureau retain the proceeds?

**Answer:**

This idea has surfaced several times over the years, most recently as a staff-generated "streamlining" measure. Our most recent fee study conducted by outside experts suggested this as one of several areas where we could consider charging a fee for services that we currently provide at no extra charge to the customer. Such a surcharge would be beneficial to the Department only if we were able to retain the revenues to further improve our consular services to the American public, and if the funds may be deposited as offsetting collections to our appropriations.

At present, those passport applicants who can document that they must travel urgently can receive passports on an expedited basis. While no guarantee exists that we can issue a passport the same day, we make every effort to do so. Obviously, this involves additional cost in terms of labor and detracts from the time available to serve all other applicants. Given that not all applicants, but only those with a clearly documented need for expedited service, would be eligible for expedited service and required to pay the surcharge, we feel such a charge would be equitable and would make good government sense in permitting our Bureau of Consular Affairs and Passport Office to provide better public service.

**CONSOLIDATION OF INTERNATIONAL BROADCASTING**

Question. The recently submitted supplemental proposed rescinding \$180 million from the Israeli shortwave transmitter facility. I understand that Israeli environmental groups oppose this facility, but, Mr. Secretary, do we know what the position of the Israeli Government is on this issue?

Answer. We have raised this issue with the Government of Israel, and this plan is acceptable to it. Prime Minister Rabin had said he would support whatever decision the Administration took on the transmitter project.

## RUSSIAN AID

Question. At the Tokyo Summit, the Administration announced an additional \$1.8 billion in foreign assistance to Russia without detailing where those funds would come from. There have been recent suggestions that this aid could be partially funded by cutting assistance to Israel and Egypt. Do you have any intention of recommending a cut in assistance to the Camp David countries? Given the current progress in the peace talks what would be the impact of such a proposal?

Answer. The President's FY 94 budget maintains current aid levels to Israel and Egypt. The President has also made it clear that we will make our best efforts to maintain those levels in the years beyond.

Question. I understand that you have decided that the State Department's orientation needs to be changed to assist U.S. industry. I support that. But, what exactly do you intend to have state officials do that is different from what the commerce service does?

Answer. I attach the highest priority to assisting US business in the international market place. As soon as legislation permits, the Under Secretary for Economic and Agricultural Affairs will be designated Under Secretary for Economic, Business and Agricultural Affairs, to reflect a very real change in emphasis and scope. Under Secretary Spero will play an active role in coordinating the Department's economic and business activities.

The Bureau of Economic and Business Affairs will be strengthened by the creation of a new Office of Business Facilitation designed to provide easier access by businessmen who need help and information about international opportunities. This office will interface not only with other parts of the Bureau, but with all elements of the Department, including the regional and functional bureaus to insure that business interests are promptly and effectively served. The new office will also work closely with Commerce and other agencies to coordinate and harmonize government export promotion services.

Overseas, I expect all our Ambassadors to assume personal leadership of our commercial programs, whether these programs are handled by the US & Foreign Commercial Service, the Foreign Agriculture Service or State Department officers. I have just sent a cable to all ambassadors reiterating the key role each of them plays in spear-heading our export promotion efforts.

Question. Are you talking about the Commerce officers playing a closer role in staffing ambassadors or are you talking about creating a cadre of state officers to do export promotion? How do you intend to keep redundancy and duplication from occurring?

Answer. In carrying out these responsibilities, we are mindful of the need to avoid redundancy and wasteful duplication of effort with other agencies, most notably Commerce. We coordinate very closely on a daily basis with US&FCS.

Commerce takes the lead in trade promotion in 68 countries where our major markets are concentrated. This

leaves 96 countries where State officers have primary responsibility for our trade promotion programs. We train our officers to carry out this responsibility. In all posts we expect the Ambassador to exert personal leadership and utilize resources of the entire mission to advance our commercial interests.

In short, there is no duplication of effort. State and Commerce activities are complementary, mutually reinforcing each other to accomplish a shared objective: the best service possible to the US business community.

#### INFORMATION SYSTEM MODERNIZATION

Question. Provide an explanation of the Department's computer system modernization or "Open Systems" plan. How will the \$10 million be spent in FY1994. How much was allocated in previous years? What is the five year plan? Please be specific. Provide milestones and modernization plans by post, if possible.

Answer. Aging computer systems endanger our ability to carry out the State Department's diplomatic, consular, and resource management mission. The Department has systems that are now obsolete, costly to maintain, and unable to meet legal/program requirements as documented in numerous OIG, GAO, GSA, and FMFIA reports.

#### QUESTIONS SUBMITTED BY SENATOR FRANK R. LAUTENBERG

##### Question:

25. I am concerned that the United States will not be fairly compensated for the value of the military infrastructure we turn over to our NATO allies as we withdraw from Europe. As you know, through so-called residual value agreements, many of the allies have agreed to compensate America for our significant investment in their military infrastructure. However, they don't appear to be in any hurry to pay us.

Although our drawdown has been rapid, we've recouped only \$33 million in cash so far from the Europeans. Most of that was in 1989. Although we have already withdrawn from over 60% of the sites slated for closure in Germany, the German Government has only budgeted \$25 million this year to compensate us. Nonetheless, I understand the value of the facilities we have turned over has been estimated at \$2.7 billion.

\* By what date does the United States expect to recoup these funds?

\* Although the Administration has the authority to collect in-kind contributions if the Congress agrees, I believe the starting point for our negotiators should be to seek compensation in cash. Do you agree?

\* Don't you think we should only seek in-kind contributions as a last resort?

\* Do you agree that whatever we recoup from the German government and other allies should be used to pay for a portion of the Administration's budget request?

**Answer:**

Resolving the residual value issue is a high priority for this Administration. My staff is working closely with the Defense Department, which has the lead in residual value negotiations, to obtain the maximum compensation possible from our Allies for the military facilities we return to them.

In Germany, where the bulk of our military presence is located, Ambassador Holbrooke and senior U.S. military leaders are engaging the German government at high levels to move the residual value negotiations forward. The Germans recognize that they have a legal obligation to reimburse us. As you may be aware, however, the Germans assess the residual value of returned U.S. military facilities differently than we do.

Nonetheless, despite serious German budget constraints stemming from the obligations of German unification, we have achieved measurable progress. In 1993 the FRG agreed to fund over \$135 million in construction and upgrades at U.S. military facilities in Germany as a credit against future residual value obligations. Earlier this year, Germany agreed to a residual value settlement of \$62 million which will be used to relocate a large portion of our Air Force operations from Rhein-Main Airbase to Ramstein Airbase.

We are working to obtain maximum compensation from the German government, but I cannot give you a specific date by which we expect to have fully recouped any residual value. I agree that our starting point should be to seek compensation in cash, but given financial realities, a significant portion of our compensation will likely consist of payment-in-kind reimbursements. The question of how such reimbursements will be used is one which the Defense Department will have to address at the appropriate time.

Let me reassure you that this is a high priority for us and we will continue our efforts to negotiate a fair settlement of our residual value claims.

Question:

26. I am concerned about reports that Jordan is helping Hamas, which has recently unleashed a brutal wave of terror in Israel.

Does the Jordanian government allow Hamas to operate out of Jordan?

How has the State Department addressed this issue?

Are you satisfied that PLO leader Arafat has adequately condemned Hamas' recent violent attacks on innocent Jewish and Arab civilians?

Answer:

Jordan does not assist Hamas in terrorist operations in Israel. King Hussein shares our abhorrence of terrorism and has a solid record of opposing terrorist operations aimed at Jordan and other countries, including Israel. For example, Jordan has a very fine record of preventing cross-border infiltrations.

Hamas has an office in Jordan but it is little more than a mouthpiece for the organization in the Occupied Territories. The King recently responded to statements by a Hamas spokesperson in Amman which claimed responsibility for the Afula and Hadera bombings. On April 17 the King publicized his intention to hold Hamas accountable for its activities in Jordan.

In a letter to President Clinton, Mr. Arafat expressed his regret over and strong rejection of the "despicable act" committed by Hamas at Afula. He addressed the Afula attack and the subsequent Hamas attack at Hadera before the European Parliament April 13, saying such attacks target only "innocent Israelis" and that the attacks "strike at the heart of the

peace process." These statements do not go far enough. We continue to press Mr. Arafat to act swiftly and forcefully to denounce each act of violence when it occurs.

Question:

27. I am concerned that the Arab League boycott is still in effect. Recent Commerce Department statistics indicate that from January to March of 1993 the number of prohibited boycott requests continues at a high level (roughly 800 prohibited requests to companies operating in Arab League countries). In light of the fact that the Israeli government signed the Declaration of Principles and the peace process is well underway, I had hoped that the Arab League countries would lift the boycott.

I am aware that the State Department continues to raise the boycott at every opportunity. Unfortunately, it doesn't seem to be working. What further steps can our government take to convince Arab countries to show leadership and promote peace by lifting the boycott?

Answer:

We believe our current strategy has been effective in undermining, if not ending, the boycott. Kuwait has renounced the secondary and tertiary aspects of the boycott; other states have taken steps to weaken their enforcement efforts; and lack of a quorum has forced the Arab League's Central Boycott Office to cancel the last two biannual meetings of its technical committee -- meetings called to consider adding firms to the blacklist. Meanwhile, Palestinians and other Arabs are discussing direct economic links with Israel.

In addition to continuing to raise the boycott directly with boycotting states, we plan to step up our campaign to enlist our major trading partners and the officials of such key organizations as the Arab League and the Gulf Cooperation Council in our antiboycott efforts. We anticipate making further headway against the boycott in the coming months.

Question

I understand some thought is being given to a limited sanction approach that would revoke MFN from products

manufactured in the state sector. How much -- in dollar terms -- does the U.S. import annually from the state sector in China?

**Answer**

We have no statistics broken down by state vs. non-state imports from China, furthermore, the Chinese government does not keep such statistics. We believe any estimate would be very suspect because of the shifting nature of the State sector, the problem in defining a state owned enterprise, and the poor quality of statistics in China.

However, having said that, to the best of our knowledge, about 10 pct of U.S. imports from China are from State-owned enterprises. This would put the figure at approximately \$1 billion in 1993.

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**QUESTION SUBMITTED BY SENATOR JIM SASSER**

**Question:**

Perhaps you could update the Committee on U.S. and international assistance to the South African Election Commission?

**Answer:**

The United States was the largest donor in support of South Africa's first universal suffrage elections. In the past two years we provided over \$35 million to support voter education, election monitoring, training for political parties, and conflict resolution/mediation. These activities, implemented through a variety of American and South African NGO's, were instrumental in helping prepare newly enfranchised voters -- many of whom are illiterate -- to participate in the election process.

In addition, the United States provided \$3 million to the Independent Electoral Commission (IEC) to assist in its

preparation for the elections. Those funds went for a variety of tasks, including voter education, monitor training and operational expenses. Several other donor countries provided support to the IEC.

#### QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

##### Question:

14. Last year the subcommittee provided the request of \$2 million to the International Boundary and Water Commission to continue work to stabilize the Rio Grande Channel between American Dam in El Paso, Texas, and Caballo Dam in New Mexico. Erosion threatens the structural integrity of bridges, agricultural siphons, and diversion dams in the valley and this project is designed to prevent further damage in the area.

Mr. Secretary, I know this is important to residents of the Rio Grande Valley in New Mexico, and I'm pleased to see that the Department is continuing to support this project. You can count on my support in that effort as well.

1. What is this year's request?
2. What is the multi-year plan for stabilizing the channel and what will the cost be?

##### Answer:

A total of \$2,100,000 has been requested for the Rio Grande Canalization project in FY 1995 (\$2,000,000 in new budget authority and \$100,000 in carryover balances).

Currently, the Commission is studying the best way to stabilize the channel and make needed repairs to the various bridges, siphons and dams along this portion of the Rio Grande. This study, which is being conducted by the Corps of Engineers, will be completed next January with actual construction starting soon thereafter. The entire project is scheduled to be completed by 1997 at a cost of around \$10.5 million.

##### Question:

15. I understand the State Department and the Intelligence Community have reached a new agreement on a method to complete the unfinished embassy in Moscow.

1. Is that true?

2. Without compromising security, can you give us a general idea of the proposed solution? Does it involve construction of a new building or completion of the existing building?

3. What will be the cost of this option? Is the \$240 million in unobligated balances that have been dedicated for this purpose sufficient to complete the building?

4. By agreeing to allow the Russians to occupy their new embassy building in Washington, haven't we lost leverage with them in terms of obtaining their agreement for any action we may propose to take to finish our own embassy building in Moscow?

**Answer:**

The Administration has reached consensus on our office facility requirements in Moscow following extensive inter-agency consultations on this matter. The conclusion is that these requirements can best be met within current available funding by removing the top floors of the uncompleted New Office Building and replacing them with new floors to provide fully secure space, and finishing the rest of the building for unclassified operations. The work will be done by cleared American workers and provide sufficient secure office space, with the balance of the building being separated by a secure transition area so that it can safely be used for unclassified operations. It will be as if we had two separate buildings, one on top of the other.

Regarding the building process, I can assure you that the Department has not lost leverage with the Russians because of Congressional actions sponsored by the Bush Administration to authorize the Russians to occupy their embassy in Washington at Mt. Alto. At that time the United States determined that specific steps outlined in a June 1992 summit agreement were of great benefit to present and future State Department building projects in Moscow. These measures included: negotiation of an irrevocable conditions of construction agreement related to the need for a new chancery in Moscow; acquisition of property linking our old office building in Moscow with the new compound; resolution of all claims generated in construction of

the NOB; and execution of a 99 year lease on the old embassy building initially at favorable fixed rate terms.

#### Funding for International Organizations

##### Question:

16. In fiscal year 1994, Congress provided \$860.9 million for assessed contributions for international organizations, including the United Nations. This fully covered expected assessments for 1994.

Due to exchange rate gains, apparently only \$838.3 million will be needed to meet assessed contributions in 1994. That leaves \$22.6 million in the account, which the budget now states will be used for arrearage payments in 1994.

Given likely budget constraints in fiscal year 1995, wouldn't these funds be better used as a "down payment" on the 1995 budget request of \$913.9 million?

##### Answer:

The \$22.6 million is the fourth installment of a multi-year payment plan. In putting the FY 1995 budget together, we took these funds into account and reduced the balance of future appropriations needed to comply with the President's plan to pay U.S. arrears to international organizations.

##### Question:

17. The Bureau of Political-Military Affairs is involved in arms control negotiations, among other things. The request for the Bureau is \$25.2 Million, and the budget justification states, "The Bureau leads the Department's efforts in the implementation of existing arms control agreements... (and) The Bureau is currently negotiating with the Former Soviet Union States" regarding several treaties.

This Subcommittee also provides \$53.5 Million in funding for the Arms Control and Disarmament Agency (ACDA).

The President and Vice-President have urged us to look at "Reinventing Government".

Last Year you stated you would be looking at the possibility of combining ACDA with the State Department.

(1) Why did the Administration decide not to pursue this consolidation?

(2) Do the State Department and the Arms Control and Disarmament Agency have duplicate roles in the negotiation of international arms control agreements? If not, what are their respective roles?

(3) Couldn't certain efficiencies be realized from such a consolidation? Couldn't arms control policy be better coordinated with such a consolidation?

(4) Could you examine this issue, and report to the Subcommittee on the respective roles of ACDA and the Political-Military Affairs Bureau, and on the merits of consolidating ACDA within the State Department?

**Answer:**

As noted, early in the Administration we looked carefully at whether to merge ACDA into the State Department. Some transition studies considered this as a possible cost-effective approach in the post cold-war world. Other studies, including one by the State Department Inspector General, recommended retaining and strengthening ACDA. We also conducted an in-house study. After weighing all relevant factors, I concluded and recommended to the President that ACDA be retained and revitalized. The President concurred, and his decision that ACDA should play an active role in meeting the challenges of this new era received strong support in the Congress.

The arms control and nonproliferation agenda is sufficiently broad and challenging that there is a need for the separate perspectives of ACDA and State. A separate ACDA is making a valuable and unique contribution, as the arms control advocate in the Administration, to the policy-making process on arms control and nonproliferation. The State Department, with overall responsibility for conducting foreign policy and managing bilateral and multilateral relations with other countries, must examine arms control in the context of our overall foreign policy and national security goals. I would note that the DOD, JCS, and Intelligence Communities are major players as well. I find the benefits of these separate perspectives serve me and the President well and outweigh any cost savings that might be realized from consolidation of State and ACDA. Regarding the latter, I would point out that a

Congressional Research Study concluded that merging ACDA into State would not result in any net savings.

The differing roles of State and ACDA are also reflected in the leadership of negotiating teams. When major negotiations arise, ACDA generally takes the lead on arms control. ACDA also takes the lead in implementing arms control agreements once they have been concluded. On nonproliferation negotiations, the President will make decisions in individual cases based on the specific circumstances of each negotiation. The goal is for each negotiation to be led by the agency that is the best match in terms of U.S. objectives in that negotiation.

#### FOREIGN BUILDINGS ACCOUNT -- OTTAWA

##### Question:

18. Within the Foreign Buildings account, you are requesting a total increase of \$22 million, from \$400 million to \$422 million. This funding would include \$49.2 million for a new American Embassy in Canada. This would supplement \$23.3 million in unobligated balances for a total project cost of \$72.5 million.

Plans for new Embassy in Ottawa have been under consideration for almost ten years. What is the urgency of this project at the current time?

##### Answer:

Our current Chancery in Ottawa is overcrowded; it is too small to accommodate embassy operations, forcing significant activities to be housed in six leased annexes off the compound, at a cost of \$289,000 per year. This arrangement impedes post communication among staff and hampers effective operations. In addition, the current Chancery does not meet minimum security standards; the building lacks a fire sprinkler system and adequate emergency egress; and it has an asbestos problem. Finally, it is located on a Parliament site that the Canadian government requires for completion of its Master Plan for the area.

In 1992 the Congress correctly questioned the advisability of our plans to renovate the existing chancery at considerable cost without improving the security situation, and without significantly addressing the fire and life safety issues resulting from the severe overcrowding. As a result, we changed our approach and now plan to build a 138,000 gross square foot office building to consolidate all appropriate embassy functions by accommodating approximately 160 desk personnel and support functions. The building will provide a safe, secure, and functional environment for the conduct of our foreign relations with Canada, a strong ally and important trading partner. Our two governments recently concluded negotiations to exchange our current site for one equally prestigious near the Canadian Parliament.

We currently anticipate the cost of the new chancery at \$79.9 million. The new facility is currently under design. Basic elements of the design criteria include cost, maintainability, use of local materials, and a blending into the existing "cityscape". The design will undergo today's rigorous value engineering standards to ensure that costs are kept to what is essential and appropriate.

Question:

19. The only major program initiative in the Department of State's operational budgets for fiscal year 1995 is \$30 million for enhancements to the information systems infrastructure of the Department.

1. Can you explain the elements of this request, and the reason it is needed?
2. If Congress is unable to provide this funding, what impact will it have on Department of State operations?

Answer:

Of the \$30 million requested, the Department requires \$25 million for Information Systems Modernization because approximately 80 percent of our systems are obsolete, are of

proprietary design, cannot be easily enhanced, are subject to rising maintenance costs and are increasingly vulnerable to failure. These systems include everything from classified information handling and consular systems to administrative systems such as financial and personnel support.

The program increase will allow us to implement our master plan for information systems modernization: re-engineering our business processes; developing world-wide E-mail, capitalizing on DTS installations; reducing vendor dependence; standardizing data; using more economical commercial software; reducing maintenance costs; off-loading work from minicomputers to the desktop; interconnecting Department systems; and adding functionality for users. In FY 1995, the Department plans to spend \$15 million to replace hardware and install E-mail at selected posts and \$10 million for systems design and re-engineering of six proprietary systems.

The Department also has 30,000 lines of obsolete telephone equipment serving 39,000 subscribers overseas at 267 posts. Telephone equipment failures are routine occurrences and much of the equipment is up to 20 years old. The remaining \$5 million will allow us to establish a regular life cycle for replacing overseas telephone equipment, reduce posts' dependence on telephone operator staff and reduce maintenance costs.

Question:

Mr. Secretary, State Department staffing at several major posts, especially in Europe, seems to be very heavy relative to the existing web of relationships we already have with these nations. For instance, we have:

146 employees in Austria, including 50 Americans and 94 Foreign Nationals;

257 employees in the United Kingdom, including 95 Americans and 162 Foreign Nationals;

290 employees in France, including 106 Americans and 184 Foreign Nationals;

569 employees in Germany, including 203 Americans and 366 Foreign Nationals;

... and these numbers do not include employees of other government agencies, such as the Treasury Department, the Justice Department, the Commerce Department, etc.

1. Why is it necessary to continue such a large presence of American State Department officials in these nations?

2. Are you taking steps to rationalize the size of our embassies overseas, particularly in western Europe?

**Answer:**

1. It is this very web of existing relationships, including our continuing NATO commitments, which has produced this relatively heavy presence in western Europe. In addition, the Department of State personnel provide support to all of the other agencies which have large bilateral and regional presences in posts such as Vienna, London, Paris, and Bonn. In several of the countries you mentioned, our posts also provide support for other posts. In Vienna and Paris, we have important missions to international organizations. Frankfurt, Germany has long been a regional hub for support to African, Middle Eastern, and now the newly independent states of the ex-USSR.

2. With the changes resulting from the post-cold war era and the Administration's drive to reduce the size of the Federal Government, our Ambassadors abroad, particularly in western Europe, have been asked to review staffing. As part of the Department's streamlining program, we are redoubling these efforts through a strengthened program planning process. This effort will assist us in rationalizing the allocation of resources to match new policies.

**Question:**

21. From 1993 through the end of 1995, the Department of State will eliminate 1,089 positions as part of the effort to reduce employment government-wide. The 1995 share of this reduction is 445 positions. The Department is authorized to have

approximately 20,000 positions in 1994. How many of the total positions in the Department are filled by Foreign Service Nationals at overseas posts, as opposed to Civil Service or Foreign Service employees? Of the 1,089 positions being reduced from 1993 through 1995, how many will be Foreign Nationals, how many civil service, and how many will be Foreign Service?

**Answer:**

The Department will eliminate 1,049 direct positions from 1993 through the end of 1995. Of these 1,049 reductions, we estimate that 633 will be Foreign National (FSN) positions.

Currently, the Department has authorized 7,958 direct FSN positions, 5,900 Civil Service positions and 7,705 Foreign Service positions for a total of 21,563. Total State direct positions will be reduced to 21,178 by the end of FY-95.

**Question:**

1. Do you support the continued existence of the Bureau of South Asian Affairs? Would it make sense to consolidate the bureau in the spirit of "Reinventing Government"?

**Answer:**

We reviewed the organization of the Department of State shortly after the Clinton Administration came into office. We concluded that the Bureau of South Asian Affairs should be retained to allow the U.S. Government to better focus its efforts in a very important region of the world.

South Asia is a distinctive region. One quarter of the world's population lives there. More importantly, it presents significant and unique challenges and opportunities to U.S. foreign policy.

It is one of the areas of primary importance for our global nonproliferation objectives and is the only place where there is a risk of nuclear exchange between two regional states. South Asia also confronts threats posed by regional and ethnic

conflict, poverty, population pressure and environmental degradation, narcotics, terrorism, and disease.

South Asia is one of the largest emerging markets and areas for new investment in the world. South Asian countries are democracies with ongoing free market reform programs. Our shared perspectives allow close cooperation in peacekeeping and other efforts to confront global problems.

Question:

2. What is the additional marginal cost to the Department of maintaining a separate bureau?

The yearly cost of maintaining a separate Bureau of South Asian Affairs is about \$500,000. This represents the cost of salaries, travel, and telephone expenses for the nine additional positions that were created when the new bureau was established. All other expenses in Washington and overseas would have been incurred in any case if the South Asia region had continued to be covered by the Bureau of Near East and South Asian Affairs.

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QUESTIONS SUBMITTED BY SENATOR MARK O. HATFIELD

Question:

24. The State Department's reorganization proposal includes plans to combine the current Bureau for Refugee programs with population policy in the New Bureau for Population, Refugees, and Migration. During the Senate's recent consideration of the State Department Authorization bill, I raised the concern that our commitment to the refugee program will be diminished by the combination with population at a time when worldwide refugee crises are demanding renewed attention and focus. What do you intend to do to assure that this does not happen?

Answer:

I understand your concern, that putting refugees and population together will lessen our commitment to refugees, but let me assure you that is not the case. The United States will continue to be the world leader in the international effort to

provide protection and assistance to refugees. We will continue to be the number one donor nation to international refugee organizations, and we will work to address the underlying political causes to allow refugees to return home in safety and dignity whenever possible.

Under the Department's reorganization plan, the Secretary intends to create a new Bureau of Population, Refugees, and Migration (PRM) headed by an Assistant Secretary. PRM will come under the jurisdiction of the new Under Secretary for Global Affairs.

This reorganization will ensure that refugee issues are given seventh floor attention and are integrated into the core of our foreign policy.

The establishment of the PRM Bureau will consolidate all Departmental responsibility for refugee matters in a single bureau and will enhance policy focus on refugee and migration issues.

As part of the reorganization, the Office of the United States Coordinator for Refugee Affairs will be abolished and the functions and responsibilities of that office will be subsumed in the new Bureau, including:

- the interagency coordination of refugee admissions and resettlement policy; and
- the formulation of the President's annual refugee admissions proposal.

Over 90 staff will continue to work on refugee and migration affairs.

PRM will also be responsible for coordinating the Department's policy on population.

-- We plan a maximum of nine slots for the population office, headed by a senior coordinator for population.

Refugee program money (the MRA appropriation) is not affected. All population program funding money is requested in other accounts. A.I.D. will continue to administer population program activities.

The new PRM Assistant Secretary will be responsible for providing policy guidance to the bureau officers, and will serve as the link to me through the Under Secretary for Global Affairs.

#### SUBCOMMITTEE RECESS

Senator HOLLINGS. We thank you very much. The subcommittee will now stand in recess until Tuesday, April 26, when we will hear from the Immigration and Naturalization Service.

[Whereupon, at 11:50 a.m., Thursday, April 21, the subcommittee was recessed, to reconvene at 10 a.m., Tuesday, April 26.]



**DEPARTMENTS OF COMMERCE, JUSTICE, AND  
STATE, THE JUDICIARY, AND RELATED  
AGENCIES APPROPRIATIONS FOR FISCAL  
YEAR 1995**

**TUESDAY, APRIL 26, 1994**

**U.S. SENATE,  
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,  
Washington, DC.**

The subcommittee met at 10:05 a.m., in room S-146, the Capitol,  
Hon. Ernest F. Hollings (chairman) presiding.  
Present: Senators Hollings and Domenici.

**DEPARTMENT OF JUSTICE**

**IMMIGRATION AND NATURALIZATION SERVICE**

**STATEMENT OF DORIS MEISSNER, COMMISSIONER**

**ACCOMPANIED BY:**

**SUSAN S. JACOBS, ACTING ASSOCIATE COMMISSIONER, FINANCE  
KENNETH W. RATH, ACTING EXECUTIVE ASSOCIATE COMMIS-  
SIONER, MANAGEMENT  
JAMES A. PULEO, ACTING EXECUTIVE ASSOCIATE COMMISSIONER,  
OPERATIONS  
CHRIS SALE, DEPUTY COMMISSIONER  
T. ALEXANDER ALEINIKOFF, GENERAL COUNSEL  
THERESE M. MCAULIFFE, ACTING ASSISTANT COMMISSIONER,  
BUDGET  
STEPHEN R. COLGATE, ASSISTANT ATTORNEY GENERAL FOR AD-  
MINISTRATION  
MICHAEL J. ROPER, DEPUTY ASSISTANT ATTORNEY GENERAL  
CONTROLLER**

**OPENING STATEMENT OF HON. ERNEST F. HOLLINGS**

Senator HOLLINGS. This morning the subcommittee will continue its fiscal year 1995 hearings with a review of the budget request for the Immigration and Naturalization Service and the Office of Justice Programs.

Appearing first will be the Commissioner of the Immigration and Naturalization Service, Doris Meissner. The INS' budget request for fiscal year 1995 is \$1,149,000,000 in discretionary spending, representing a \$101 million, or nearly 10-percent increase above the amount appropriated last year.

An additional \$264 million for enhanced immigration activities is also included in the crime control fund, so all told the President's

request for the Immigration and Naturalization Service seeks \$365 million in increased discretionary spending.

We welcome you to the hearing, and we would be delighted to hear from you at this time. Your statement in its entirety will be included, and you can deliver it or highlight it as you wish.

#### OPENING STATEMENT

Ms. MEISSNER. Thank you. I would like to introduce Susan Jacobs, who is our new Acting Associate Commissioner for Budget and Finance.

I am pleased to have the opportunity to appear before you in support of the 1995 budget request for the Immigration and Naturalization Service.

I would like to begin this morning by saying that I look forward to an open and a productive relationship with the committee. In that regard, I would like to also say that I regret that our first communications have been the result of several serious missteps on the part of the Service where two recent reprogrammings have been concerned. I hope you will allow us to make a fresh start in this regard.

Senator HOLLINGS. We will.

Ms. MEISSNER. We have learned from our mistakes, I believe, and I would like to establish an ongoing dialog with the committee that attempts to fully meet our responsibilities to inform the committee of critical developments.

Senator HOLLINGS. Very good. Of course, as you know, with regard to our request for the 1994 spending plan, we asked, but we were told we could not get the information. Then, one Senator from California was up talking about it, but we as a committee could not get it, and yet we have the responsibility for oversight.

Ms. MEISSNER. Well, I was under, and we in the Service were under a series of contradictory and conflicting pressures, and, hopefully, I will be able to manage those pressures more effectively in the future. Thank you very much.

As you laid out, the Service is requesting for 1995 an appropriation of \$1.149 billion, 12,995 positions, which is an increase of \$98.25 million and 650 positions over our 1994 levels.

In addition to that, the administration's request also includes \$300 million from the crime control fund for critical immigration control initiatives. Some of that money is for the Immigration Service and some is for other Department of Justice components that support our work.

When the resources from the Service's "Salaries and expenses" account are combined with the funding from the crime control fund and our fee-supported operations, the total resources that we are requesting for 1995 are over \$2.1 billion.

#### 1995 IMMIGRATION INITIATIVE

I would like to focus my opening remarks on the 1995 immigration initiative, which the administration has forwarded to the Congress. That funding initiative has five major parts. It is based on the premise that we support legal immigration, and we combat illegal immigration. To do that, we are looking for ways to strengthen the immigration system and that involves important investments

in the ability of the Immigration and Naturalization Service to manage the immigration system effectively.

Those investments in this budget heavily emphasize technology and more infrastructure and more effective infrastructure for the Service in areas where we need to build our capability.

The immigration initiative we have forwarded has five goals. The first goal is to strengthen border control. That goal began being met during this fiscal year with \$45 million, which the committee strongly supported, and for which we are very grateful. That \$45 million has been the beginning of putting into place a strategy on the Southwest border of preventing illegal entry rather than waiting for it to occur and then stressing apprehensions.

That prevention strategy has been demonstrated to be effective in El Paso, and we are moving from El Paso, where we have shown prevention can work, to the San Diego area, which is the most heavily pressured area of the border where illegal crossings are concerned. The money in 1995 that is in this budget that we are requesting will continue that initiative. It will allow us to put people in other places along the border, depending on what shifts we see from the strengthening that is going on in El Paso and San Diego. It will bring significant technologies to our people on the border all along the Southwest.

The second goal we are trying to achieve in this 1995 budget request is to expedite the removal of criminal aliens. The criminal alien piece of the budget is an effort largely to invest in judges and in lawyers who will carry out deportation hearings at State prisons, where most of the criminal aliens in the country at the present time are incarcerated. That means that people who have completed their deportation hearings can be removed from the country once sentences are finished, or in some cases where Governors decide to commute sentences, might even be leaving the country if they are not violent criminals before the end of the sentence has been completed.

The third goal we are trying to achieve in this 1995 budget is the implementation of comprehensive asylum reform. The asylum reform effort that is asked for in the budget constitutes a doubling of the asylum officers that we presently have to interview applicants. It also calls for a significant increase in the number of immigration judges who hear asylum cases. It is the parallel effort to a regulatory reform which streamlines the asylum system which is presently out for comment in a published rule.

The fourth part of the immigration initiative for which funding is being sought is the effort to reduce further the magnet of job opportunities in this country. When all is said and done, illegal aliens come to this country primarily to work, and it is the responsibility of the Government to diminish the opportunities for work for undocumented persons.

This money will help us to create more effective deterrence in the workplace. It particularly will help us to focus on fraudulent documents and those who may sell fraudulent documents, as well as to target more intensely employers and industries that traditionally have hired illegal workers.

The final effort in the immigration initiative is an effort to encourage naturalization, and our effort to encourage naturalization

is one of providing education and community services so that large numbers of people that presently are eligible to naturalize in our country know what is required and have better access to the information where citizenship is concerned.

This is a mixture, an even mix of funding for the Immigration and Naturalization Service to speed up its handling of applications as well as grants for community-based agencies to work with eligible applicants. These initiatives, taken together, will allow us to facilitate legal immigration and to control more effectively illegal immigration.

#### CRIME CONTROL FUND

Three of the initiatives are part of the crime control fund, which the administration is seeking as part of the crime bill. The third initiative, political asylum, is also part of the crime control funding.

The political asylum initiative, being part of the crime control funding, is a recognition that the country must have the resources necessary in a political asylum system to make timely decisions. If not, political asylum represents an enforcement vulnerability, which presently is what we are seeing with our political asylum system.

#### NATURALIZATION INITIATIVE

Finally, the naturalization initiative will help us to encourage naturalization as a part of the regular appropriations that we are requesting. The Service has traditionally accomplished its mission through labor-intensive processes and adding more personnel, but not providing the tools and providing the infrastructure needed to do an effective job.

We are asking for officers in this funding proposal because more are needed. However, we will no longer take piecemeal steps to address the problems facing aliens. This budget will provide the technology, the automation, and the information networking with other Federal and State agencies that will intensify the impact and the effectiveness of our resources and allow the Service to work smarter.

I cannot really emphasize too strongly the importance of the technology and the technological support which is embedded in this request. For the Service, when we talk about technology, it is not a matter of upgrading computer systems or getting better PC's for our officers. It is a matter at the border of our officers still using Selectric typewriters, still doing by hand on carbon copy forms things that could very easily be done by computers and automated data systems.

We have demonstrated in the test throughout the country, a particular test in McAllen, that shows how we can automate booking procedures and other border functions in ways that we are requesting in this initiative. We can increase up to 40 percent the productivity that we are presently achieving on the line if we can provide our personnel with the technology that we are asking for in this request.

We simply have in the past lacked the capital to deploy these systems across the board. This request provides the wherewithal to meet that very pressing need.

## USER FEE ACCOUNTS

I would close by saying we are also requesting money in our user fee accounts. Those amounts are specified in more detail in the testimony, and I would like to finally mention that for 1994 our planned spending in our "Examinations fee" account has fallen well below our estimates, possibly as much as \$50 million below. That is a calculation that we are still working to refine, but it is well below what we presented in 1994. We will keep the committee informed of changes that are in that account, as well as how that might affect the 1995 estimate.

## PREPARED STATEMENT

That closes my opening summary. Thank you very much.  
[The statement follows:]

## STATEMENT OF COMMISSIONER DORIS MEISSNER

I am pleased to have the opportunity to appear before you in support of the Administration's 1995 budget request for the Immigration and Naturalization Service (INS). The INS is requesting for 1995 an appropriation of \$1.149 billion, 12,995 positions, and 12,723 workyears. This represents an increase of \$98.25 million and 657 positions over the 1994 levels. In addition to this appropriation request, the Administration's budget also requests \$300 million from the Crime Control Fund for critical immigration control initiatives (\$264.2 million for INS, and \$35.8 million for other Department of Justice components to support INS initiatives). With the resources from the Service's Salaries and Expenses account combined with the funding from the Crime Control Fund and our fee supported operations, the total resources available to the Service during 1995 would be over \$2.1 billion, a twenty-two percent increase over the Service's 1994 funding level.

## IMMIGRATION INITIATIVE

The Administration's 1995 Immigration Initiative has five major components: (1) Strengthen Border Control; (2) Expedite the Removal of Criminal Aliens; (3) Implement Comprehensive Asylum Reform; (4) Reduce the Magnet of Job Opportunities; and, (5) Encourage Naturalization through Education. These initiatives will allow us to facilitate legal immigration by controlling illegal immigration. Four of these initiatives are directed toward controlling illegal immigration, which is a problem that threatens this country's immigrant traditions and burdens State and local governments. The request for the Naturalization Promotion and Education component will enable the INS to better promote the naturalization of legal immigrants. The 1995 budget request will enable the Administration to pursue solutions to the important problems related to immigration.

The INS has traditionally accomplished its mission through labor-intensive processes, adding more personnel but not providing the tools and supporting infrastructure needed to do an effective job. We will add officers because more are needed. However, we will no longer take piecemeal steps to address the problems facing the INS. This budget will provide the technology, automation, and information networking with other Federal and State agencies that will intensify the impact and effectiveness of our resources and allow the Service to work smarter.

The first three initiatives, Strengthen Border Control, Expedite the Removal of Criminal Aliens, and Implement Comprehensive Asylum Reform, are proposed to be funded by the Crime Control Fund. The last two, Reduce the Magnet of Job Opportunities and Encourage Naturalization through Education, are included in the Salaries and Expenses appropriation request.

*Strengthen border control*

Our strategy at the Southwest border is to prevent illegal immigration and facilitate legal entry. The border initiative bolsters enforcement at the border by building on the increases received with the help of this Committee in 1994. The funding requested from the Crime Control Fund for this initiative is \$180.7 million. Together, these funds will be used to put 1,010 additional Border Patrol Agents on the line to provide a visible presence at high-risk border areas to strongly discourage illegal entry, similar to what we have achieved at El Paso. We will make significant equip-

ment and technology enhancements that will enable the INS to make better use of automation in combatting alien smuggling operations, freeing up agents from doing paperwork, and allowing agents to spend more time on the line carrying out primary enforcement duties.

We intend to have 1,010 more Border Patrol agents on the line by the end of 1995. Of these, 350 are new agents who are being hired during 1994, and 160 are new agents who will be hired in 1995. In addition to the hiring, 510 agents will be reassigned to line duties from support positions, such as drivers and radio technicians, or made available because of the automation of paperwork now performed by agents. The equipment and technology enhancements include fencing, lighting, encrypted radios, infrared equipment, and development and enhancements of automated systems. These improvements will multiply the effectiveness of our human resources and add to their productivity.

*Expedite the removal of criminal aliens*

Effectively identifying and removing criminal aliens requires close cooperation across the law enforcement community. To "Expedite the Removal of Criminal Aliens", the Administration is requesting \$55.2 million, \$45.2 million for INS and \$10 million for the Executive Office for Immigration Review (EOIR). The Institutional Hearing Program (IHP), which allows the Service to assume custody and promptly remove deportable aliens when they complete their sentences, will be expanded in the five states which have the largest concentration of incarcerated aliens and in all Federal prison facilities. In addition to the proposed increase of 50 Immigration Judges and related support staff to conduct more deportation hearings, we will use video teleconferencing technology to enhance productivity, allowing hearings to be held using video equipment located at detention sites and at the judges' court rooms. By reducing the amount of time spent traveling to deportation hearings, judges will be able to conduct more hearings and we will make cost-effective use of judge and attorney time.

*Implement comprehensive asylum reform*

With the \$64.1 million requested, a more timely asylum decision system will be established by INS, in conjunction with the Executive Office for Immigration Review (EOIR), the U.S. Attorneys, and the Civil Division. The new procedures, which have been issued as a proposed regulation, coupled with additional resources, will enable us to stay current with incoming applications and work on backlog cases. We will focus enforcement efforts on fraudulent applications and reduce incentives for asylum abuse, while protecting the process for those who are legitimately seeking asylum. Enactment of the reform proposal will permit deportation of those fraudulent applicants whose cases are adjudicated and denied. The INS portion of this request, \$38.3 million, will provide 184 new Asylum Officers, more than doubling the officer corps, as well as the support required for the operation of the asylum offices. Included in this amount is \$10 million for deportation. The needed improvements in the asylum process can only be accomplished if the additional resources are provided. Without increases in resources, the dual objectives of facilitating legitimate claims and stopping the incentives for fraudulent claims cannot be met. This budget request implements the President's pledge in July 1993 to reform the asylum system.

*Reduce the magnet of job opportunities*

The INS budget includes a request for \$32.7 million to "Reduce the Magnet Effect of Job Opportunities". We will make it easier for employers to determine who they may employ by expanding the Telephone Verification System and improving document security while increasing our enforcement of employer sanctions.

Our enforcement efforts will include targeting industries that have historically hired unauthorized aliens, following leads referred to INS by the Department of Labor, and reducing the marketability of fraudulent documents. We will conduct follow-up investigations of previously sanctioned employers to identify repeat offenders, to both impose penalties and evaluate our effectiveness.

These enforcement efforts will be combined with employer education activities to improve understanding of employer sanctions requirements and how to comply with them. In addition, the Service will develop an "800" hotline to assist employers in fulfilling their responsibilities. The Department is also requesting \$5.7 million for EOIR and the Office of Special Counsel for Immigration Related Unfair Employment Practices. The requested resources will be used to add additional judges, as well as increase the application of the anti-discrimination provisions of the law. This comprehensive approach involving the Service, EOIR, and the Office of Special Counsel will reduce illegal employment opportunities while, at the same time, work-

ing to ensure that those authorized to work may do so without being subject to discrimination.

*Encourage naturalization through education*

Our proposal to encourage naturalization through public education and streamlined INS procedures is a response to the need to help bring newcomers into full participation in our society. The INS budget for the Salaries and Expenses appropriation includes a request for \$30 million to enable the INS to accomplish this. Naturalization has been funded by the Examinations Fee account for some years. However, 1994 is the first year the Legalization population begins to become eligible for naturalization. This population represents a large one-time increase in naturalization cases and requires special investments for INS to respond to a large anticipated jump in workload. The resources will provide sufficient personnel to adjudicate the increased number of applications for naturalization without which backlogs could grow. Information services dealing specifically with naturalization topics will be expanded by the addition of "800" phone lines and additional personnel.

This initiative contains \$15 million which will be used for cooperative agreements with community-based organizations, ethnic group networks, and educational institutions to do public outreach, provide required language and civics instruction, and assist in the preparation of naturalization applications.

FEE ACCOUNTS

The Service is requesting \$686.1 million and 7,480 positions in its fee accounts. These resources are essential to overall agency operations.

*Immigration user fee*

For 1995, we are requesting \$321.6 million and 3,110 positions in the Immigration User Fee account. This request includes 136 additional positions in the Inspections program to keep pace with projected air traffic growth. It includes an increase in funding for detention space in the New York City area to assist with the problem of excludable aliens attempting to enter the country through John F. Kennedy International Airport and Newark International Airport. Resources are also requested to meet support infrastructure needs.

The resources from this account have enabled the Service to make substantial progress in facilitating the inspection process for international travellers, as well as provide detention space for inadmissible aliens, information and data support for inspections operations, and support for activities funded from the account. Our international flight inspections met the 45-minute standard in over 99 percent of total inspections last fiscal year. We are striving to further improve our performance through the use of automated inspections applications to facilitate the entry of travellers while maintaining the quality to assure that only authorized persons are admitted to the country.

*Immigration examinations fee*

For 1995, we are requesting \$353.2 million and 4,295 positions in the Immigration Examinations Fee account. Increases are included to: expand the asylum officer corps; expand community outreach activities; improve services at land border ports-of-entry; and interface INS' and State Department systems to add visa information to INS' systems. We also plan to improve information services to the public and provide support infrastructure improvements. This fee account supports the main service functions of the agency including the adjudication of applications for immigration benefits and political asylum, refugee processing, and public information services, as well as necessary support.

Due to a lower volume of incoming applications to date this fiscal year, the revenue estimate for 1994 has recently been revised downward. As a result, measures have been taken to reduce costs as much as possible. For activities funded by this account, hiring has been frozen, overtime has been curtailed, and general expenses (i.e., travel, training, supplies, equipment, contractual costs) have been frozen. Also, the Service is considering, on a test basis, the revision of its policy of routinely submitting fingerprint cards for FBI checks for all applicants for benefits. This test would apply only to persons already in the U.S. seeking adjustments in their immigration status. However, because no empirical data currently exists to support an immediate change to this policy, we are conducting an in-depth analysis to determine the effect of this potential change in policy.

*Land border inspection fee*

For 1995, we are requesting \$1.6 million in the Land Border Inspection Fee account to continue pilot projects on the northern border. Currently, one dedicated

commuter lane project is operating at the Blaine, Washington, Port-of-Entry. The Service has worked closely with the Customs Service and local authorities to lay the necessary ground work to open additional pilot projects.

*Breached bond/detention fund*

We are requesting \$6.2 million and 48 positions in the Breached Bond/Detention Fund to continue efforts to improve the management and collection of breached bonds and to provide resources to the Detention and Deportation program for the detention of illegal aliens. Progress has been made in the collection of breached bonds, the development of bond management/debt collection procedures and support systems, and in the engagement of litigation against delinquent surety companies.

*Immigration legalization*

Finally, we are requesting \$3.5 million and 27 positions in the Immigration Legalization account to continue to process residual application workload and to maintain operations of the Legalization Appeals Unit.

This concludes my remarks on the Service's 1995 budget request to the Congress. I would be pleased to answer any questions that you may have regarding the budget and the Service's operations.

CRIMINAL ALIENS

Senator HOLLINGS. Thank you very much.

When you look at the Federal prison inmate population, 26 percent are criminal aliens. The Federal Prison System operates with a budget in excess of almost \$2½ billion, so we are spending some \$626 million on housing criminal aliens in Federal prisons. The administration has just requested \$350 million to reimburse seven States for the cost of housing criminal aliens convicted of State crimes.

Can we not better utilize these moneys to strengthen our border patrol, our border enforcement, and improve on the enforcement in the first instance? Then, the next question is, why do we keep them so long? We keep them until they serve their sentence before we move to deport them. It would seem both by way of prevention and by way of deportation that we are slow to the particular task, and I was wondering about that.

Ms. MEISSNER. Well, the prevention at the border is, as you point out, clearly the most important and the highest priority task that we should be pursuing. That is very much what is reflected in this budget request for 1995 and which we have begun, I think, very effectively with the 1994 moneys that you appropriated.

The budget amendment for reimbursing States for prison cost is a companion piece. It is certainly not meant to stand alone or to in any way take the place of effective border control. We do face the fact that there is a large illegal alien population at the present time that is in State and Federal prisons.

Where State prisons are concerned those are direct costs for States when they face other very pressing needs for incarceration. This is an effort to respond to practical cases, the circumstances that States face. By no means does it take the place of effective border control, and we think that the only way in which to begin to work down costs that States are facing where incarceration is concerned is to be much more vigorous on the border, so that this request is an eminently important request.

Senator HOLLINGS. Well, there is more to it than that. For example, as I understand it, currently the aliens who arrive here without documentation are called excludables, and these excludables, illegal aliens, ought to be detained until a hearing, but what really

happens is they arrive by boat, for example, as 400 Haitians just did and instead of holding them in a detention facility, they are immediately paroled into the community.

Being interested and knowing you were going to be here this morning, I asked an immigration judge down there in Florida this morning about these excludables. And, the immigration judge just this morning said that his no-show rate in court runs from 60 to 80 percent. They come in, they are documented and everything else, and instead of being detained, they are just let out onto the community, and you get 20 percent back for the hearing, and 80 percent are gone.

Now, that is what bothers us in trying to make funding decisions and especially when considering an increase.

Ms. MEISSNER. I do not know about the actual figures you are citing, but there is no question that the no-show rate among people who have been released is high, and a great deal higher than we would like it to be.

That is one of the reasons that we are focusing on moving criminal aliens through the system quickly, because criminal aliens have to be the first concern, since they are generally a danger to the community. If we can move criminal aliens through both the Federal and State systems more efficiently than presently has been the case, and that is what is being called for in this budget request, then we are freeing up detention space to detain the excludable aliens that you are talking about.

It is our policy to detain excludable aliens, and by and large we do, but when our detention facilities are oversubscribed, then those who are not a danger from a public safety standpoint have to be released.

The system needs to be confronted at a number of stages, and the first stage is to do exactly what we are asking for in this budget request, which is to deal much more efficiently with criminal aliens so that our detention space can be used to assure show rates at hearings and ultimate removal for those who are not to be staying.

#### FINGERPRINTING APPLICANTS

Senator HOLLINGS. Well now, Madam Commissioner, you have got the Justice Department inspector general and his report that is critical of the INS oversight and scrutiny of fingerprints on applications for permanent resident status. I understand on the House side, you testified that the Catholic charities were assisting the applicants with their fingerprint cards. Yet, the inspector general's report cites one example of a report back in Baltimore—or over in Baltimore—where fingerprints were being made by vendors out of the trunk of a car. There was no verification of identity and these prints could belong to anybody. I mean, that seems like a loose operation.

If you get the excludables you let them go through on the fingerprint check, and then any and everybody can get in, whether they are charity or out of the trunk of a car and everything else of that kind. And no one really knows whose fingerprints are being shown.

Do you have any response to that report?

Ms. MEISSNER. That report is with us in draft form at the present time. It has not been finalized. We are, of course, very interested and concerned with what the initial findings of the inspector general seem to be. The fingerprint matter is a matter that is of serious concern to us.

We are, of course, very committed to carrying out our law enforcement responsibilities where applicants for benefits are concerned. We have a full-scale review underway that is attempting to develop a fingerprint policy that stands up to our law enforcement responsibilities, as well as our responsibilities to adjudicate applications in a timely fashion.

We will be working on the fingerprint issue in the next several months, and we will share with the committee the results as soon as we have completed them.

Senator HOLLINGS. The point is right here in the inspector general's report from the Department of Justice we read the sentence, "There are no effective controls to prevent individuals intent on denying their criminal record from having someone else complete their fingerprint cards in these shops and then submitting those prints as their own." That is the sentence we picked upon.

I understood over on the House side your answer to the question regarding what percent of applicants turned out to have criminal records was 1 percent, and yet the Justice Department in this report says it is 5.4 percent of those checks that turned up criminal records.

Ms. MEISSNER. Well, we have not, or we had not, had access to the data that the inspector general had developed. We now will have access to that data, and we will look at it very carefully. We take this matter very seriously, and we have put into abeyance any decisions that we were contemplating to change the fingerprint policy. This is receiving a thorough review in collaboration with the inspector general and the investigation that that office has carried out.

#### EXAMINATION FEE ACCOUNT

Senator HOLLINGS. Now, the committee authorized \$347.5 million for the INS "Examination fee" account this fiscal year, and I think you realize that your revenue projections were down so you only allocated \$305.1 million, which was a reduction of \$42.4 million. And then after reviewing the first quarter data you determined that the fee receipts had dropped again an additional \$30 million to \$274.9 million.

A midyear review now foresees even fewer receipts necessitating another reduction of \$20 million, bringing the total shortfall to \$92.4 million in anticipated revenue. What is the reason for this shortfall here?

Ms. JACOBS. Over time we have seen a substantial decline of the receipt of applications from our original projections.

Senator HOLLINGS. Did you consider cutting back on the staff and everything else to try to save this money? Because that is what you have got here. There is that kind of effort, and if you indicate less of a workload, then you would need less personnel.

Ms. JACOBS. That is absolutely something that we need to continue to consider. When the green card replacement program was

held in abeyance, the INS decided that the temporary employees who had been hired for that program should not be continued, and that was carried out last year. We are continuing to review at the rate we deliver services and the expenditures that we make. If the work is not coming to us, then there is no need to have the activity set up to do the work. We are working very seriously on eliminating the fat over the short term and the long term.

Senator HOLLINGS. Very good.

Senator Domenici.

#### STATE CRIMINAL ALIEN ASSISTANCE PROGRAM

Senator DOMENICI. Thanks, Mr. Chairman.

First, I am sorry that I was late.

Senator HOLLINGS. But you were a witness.

Senator DOMENICI. Right, and I will have to go back at 11 o'clock, but I will be here until then.

Let me talk a minute about the State Criminal Alien Assistance Program that the President announced. I think perhaps you spoke about it. But let me review for the record here what I see about this funding.

First, the funding would be offset, or the offsets for this program would be \$73 million in FCC fees.

Senator HOLLINGS. No chance.

Senator DOMENICI. These fees will be collected on top of \$95 million in new fees that were included in the 1994 Reconciliation Act.

Now, frankly, you know, we are looking forward to this so-called information superhighway that you are a strong advocate of and the Vice President is. What we are really doing, it seems to me, if we put in \$73 million more in FCC fees, we are going to make this superhighway of information a tollway instead of a freeway. Like every time they turn around they are going to have to pay fees.

Senator HOLLINGS. You have got it.

Senator DOMENICI. So frankly, I do not think it is going to happen, and you just said it is not going to happen. And I want to state for the record, because I think it is important for this subcommittee, we are going to be asked to fund this \$350 million that is in our subcommittee. Now, where are we going to get the money?

The President also says, here again, let us cut the judiciary by \$285 million. Let me say to you, Commissioner, I am not really one who picks on the President. In fact, of late I have helped on three or four major issues and I feel very, very good about that. But these are phoney offsets, just as phoney as you could ever imagine, and the expectations for some reason—I surmise, Mr. Chairman, political reasons—are just being raised to an inordinate level if we are going to get all this money reimbursed to the States when there is not any way to pay for it up here.

Now, what goes around comes around. When we get to \$350 million do you want to fund crime more, do we want to build more Federal prisons, we want to do all these things—put 50,000 new policemen on the beat, right? All of this comes out of the same funding pot, and now we are saying but we will just cut the judiciary another big chunk and we will pay for this program.

I understand that INS has information on whether or not criminals incarcerated in State prisons are foreign-born but not on whether they are illegal aliens. Is that true?

Ms. MEISSNER. That is correct. With the foreign-born we then have to determine who among those are illegal or who are legal and deportable.

Senator DOMENICI. And you are going to be in charge, you are going to administer the program?

Ms. MEISSNER. That is correct.

Senator DOMENICI. You are going to be in charge of verifying the number of illegal aliens in State prisons?

Ms. MEISSNER. That is correct, and we would be doing that, and are doing that in any event, as a part of the institutional hearing program which is one of the five major pieces in the 1995 budget request apart from this reimbursement program.

Senator DOMENICI. How do you intend to do that when obviously you have just answered the question that you do not know?

Ms. MEISSNER. We do this by interviewing the people.

Senator DOMENICI. So that is going to cost more money to do that?

Ms. MEISSNER. As I said, we would be doing that in any event as a part of an institutional hearing program which is one of the initiatives in the Immigration Service's budget. The institutional hearing program is an effort to move illegal aliens or deportable prisoners out of State facilities and Federal facilities as quickly as possible with deportation hearings while they are serving their sentences.

So our effort to determine illegal and legal status among the foreign-born is one that is important and ongoing for reasons apart from the State reimbursement effort.

#### ILLEGAL ALIENS

Senator DOMENICI. Well, the chairman spoke of illegal aliens awaiting deportation through various processes never getting deported and being turned loose, and some on good behavior that they will come back. I think we are trying to correct some of that in New York, but I do not know that while we are correcting it what we are doing in a city like Albuquerque.

I have got a report from Albuquerque that immigrants who are apprehended are often released without any effort being made to be sure that they returned to Mexico. This is particularly a problem on weekends when there are insufficient personnel available to transport these aliens to detention centers and they are just being released in Albuquerque, NM. The Albuquerque Office of Immigration and Naturalization say they do not have enough funds to contract for local imprisonment. Are you aware of this situation, and if not, will you look into it?

I think this is just because Albuquerque is a little bit rural compared to New York City or San Diego. We are still having a problem, if this is occurring.

Ms. MEISSNER. As a result of our phone conversation on this several weeks ago I can tell you that within the last month we have put additional funds into Albuquerque for detention purposes. We have some additional staff coming in there to deal with the deten-

tion situation. I think that in Albuquerque this will be freeing us up in ways that are responsive to your concerns.

#### CRIME BILL

Senator DOMENICI. Do you know whether the administration has a position on whether they support the trust fund for funding the crime bill, the trust fund established in the Senate wherein we put all of the savings from the full-time equivalency reductions into a trust fund?

Ms. MEISSNER. My understanding is that not only do we support the trust fund but the major portion of the Immigration Service's funding proposal for fiscal year 1995 is targeted to come from that trust fund.

Senator DOMENICI. We will suggest again for the record, just because the chairman and I will be the ones trying to find the money in the crime bill, that even the trust fund does not give us nearly enough to fund the programs that the President is asking for or the Congress is passing. It may in the second, third, and fourth year, but in 1995 it is a whopping amount of money short of where we need to go.

Let me talk a minute—I was going to talk about fingerprints, but the chairman did.

#### NEW BORDER PATROL STATION

The Santa Teresa port of entry: I think you are familiar with it, and I think we talked to you before about the announcement that the El Paso sector intended to provide 50 special agents for a new border station at Santa Teresa, NM. It was intended that a temporary facility be established, with a possibility of a permanent one in the future. Obviously, I believe, this is going to be a big port in the future, just because all the others are too crowded and it is in a pretty good location. What is the status of the plans for this new facility, temporary or otherwise, at Santa Teresa?

Ms. MEISSNER. Well, we had a temporary facility that the Border Patrol thought could be moved in, but we then learned that there were not the proper electricity and sewage and water systems and so forth. So the Border Patrol has now submitted, as a matter of fact just this week, what its requirements would be. Within the next 30 days we will know whether those can be met from existing facilities that are available or whether we will have to go the construction route. So within 30 days, we should be able to meet your timetable.

Senator DOMENICI. So you will be able to tell this committee, in response to this question today with a copy of your report to me on what is the principal reason you could not do it? If that is infrastructure, you can tell us that?

Ms. MEISSNER. Exactly. I mean, the reason we could not put the temporary facility in was that it was going to cost \$250,000 to do the prep work and so forth. We now have new engineering specifications from our field people that will take us 30 days to review vis-a-vis what existing facilities that might be available. At the end of that 30 days we will know whether we can move into something that already is in the area or whether we will have to do new construction.

If we have to do the construction it will, of course, take longer. If we can locate something that is appropriate for modification or even appropriate as it is, we would be able to be in within probably 90 days.

#### COMMITTEE NOTIFICATION OF CRITICAL DEVELOPMENTS

Senator DOMENICI. Mr. Chairman, I do not know if you have raised this heretofore, but earlier this year the Immigration and Naturalization Service decided to implement the congressional enhancement for Border Patrol without any consultation or notification to this committee. The administration did see fit, however, to discuss this openly at public meetings with members of the delegation from California.

I have no objection to the administration announcing this with anyone, but it does seem to me that this subcommittee, which actually voted on that in this committee and gave that resource to you, should be advised when you intend to implement a program. It is implemented slightly differently than we had recommended.

Senator HOLLINGS. Ms. Meissner recognized that fact and said we are going to work together.

Ms. MEISSNER. I pleaded for a fresh start, and I mean that sincerely.

Senator DOMENICI. I was surprised because, you know, I have been at this for a while, but I saw the pronouncements as to who did all of that and where the authorizations came from.

Senator HOLLINGS. Well, to sum things up, you have got your decision discontinuing fingerprinting, and then the improvements needed in the asylum program with regard to the excludables with the judge saying 80 percent of them are never seen again. Then, \$92 million that you are short in the examinations fees. And, you are asking for another \$350 million from a cut in the courts account and an increase in the FCC fees that are not going to happen, I can tell you that right now. So we have got a problem working out your appropriation. There is not any question about it.

We will get these questions on the floor, but whoever picked out seven States to be reimbursed and not the State of New Mexico, they must be whistling Dixie over there. They do not even have good common sense, and you can tell Leon Panetta I said that. [Laughter.]

Senator DOMENICI. He probably figured we were insignificant again.

#### ADDITIONAL COMMITTEE QUESTIONS

Senator HOLLINGS. I do have some other questions we want to submit for the record.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

#### QUESTIONS SUBMITTED BY SENATOR ERNEST F. HOLLINGS

##### AVAILABILITY OF FISCAL YEAR 1994 SPENDING PLAN

*Question.* This Committee was instrumental in providing the INS with a \$129 million enhancement in fiscal year 1994. Included in this funding was \$45 million to hire an additional 600 Border Patrol agents.

On January 25, 1994, we read in the Los Angeles Times an article outlining your plans for allocating this \$45 million Border Patrol enhancement. Instead of hiring 600 new agents, the article described your plan of hiring 350 new agents and redeploying to the border 192 agents currently performing administrative functions.

When the Committee staff attempted to learn the details of the INS plan for allocating the \$45 million Border Patrol increase, they were told nothing was official and they could not have any information.

Then, on February 3, 1994, we learned the details of the spending plan had been shared with our distinguished colleague, Senator Feinstein, but that we still could not have any substantive information.

It was not until Senator Domenici and I contacted the Attorney General—well after the INS had gone public with its plans for spending the fiscal year 1994 enhancement—that we were given any details of the proposal. Were you directly involved in the “order” not to provide this Committee with details of your fiscal year 1994 spending plan? If not, who was?

Answer. I was involved in embargoing the information about the allocation of the \$45 million Border Patrol enhancement for fiscal year 1994. In conjunction with officials of the Department of Justice Associate Attorney General’s Office and elsewhere in the Executive Branch, we planned a February 3 release of this information along with a description of the immigration initiatives to be included in the Administration’s fiscal year 1995 budget request.

I regret that we were not able to give your staff written materials on February 2, although we were prepared to give you a verbal briefing. I further regret that Senator Feinstein was able to secure this information before you and Senator Domenici.

*Question.* Do you believe this Committee has the responsibility for the oversight of the expenditure of the funds it appropriates?

Answer. The Service recognizes the Committee’s oversight responsibility and plans to cooperate in every respect to assure that the members and staff are informed regarding the Service’s progress in implementing initiatives supported by the appropriation as well as other developments of interest to the Committee.

*Question.* When an agency decides to spend its resources in a manner different than that provided in the Appropriations Act, do you believe the Committee must be notified before such a decision is implemented?

Answer. Consistent with Section 605 in the General Provisions of the Appropriations Act, the Committee should be informed of such differences. In addition to formal notifications, the Service recognizes that it is important to keep the Committee informed regarding developments in critical areas of operations.

*Question.* What steps, if any, did you take after the February incident to improve your staff’s communications with this Committee?

Answer. The Service has taken steps to improve communications with the Committee and will arrange periodic briefings with the Committee’s staff to keep them up-to-date regarding budget issues and progress being made in implementing initiatives supported in the appropriation.

#### DECISION TO CEASE FINGERPRINTING IMMIGRANTS

*Question.* After our February experience with the INS, I was shocked to read in the paper of an action you had taken two weeks earlier to cease conducting fingerprint checks on immigrants applying for residency in the United States.

First, I couldn’t believe the INS would—just two months later—completely ignore the reprogramming authority contained in the Appropriations Act.

Second, I thought the rationale that the number of immigrants found to have serious criminal records was small—maybe one percent of the total applying for residency—was lame. I think the paper indicated that 9,000 of the 890,000 had criminal records. Well, that’s one too many for me!

Why was this Committee not consulted prior to your implementation of this policy change?

Answer. At the time that the decision was made to implement the policy change, the Service was confronted with a situation in which two major requirements had to be met. One was the requirement to submit a reprogramming request to notify the Congress of the change. The other was that INS had to take immediate action in response to a drop in the number of applications for immigration benefits and the decline in fee receipts in the Immigration Examinations Fee Account. The decision regarding fingerprint checks was one of a number of steps which were taken in the management interests of the agency and in the interest of financial responsibility. These considerations led to the decision to move ahead with the policy change in advance of consultation with the Congress.

*Question.* Were you aware of the requirement under Section 605 of our appropriations Act to notify this Committee at least fifteen days in advance of any action to increase or decrease a program or project by the lesser of \$500,000 or 10 percent?

*Answer.* The Service is aware of the requirements contained in Section 605 of the General Provisions of the Appropriations Act.

*Question.* What kind of assurances can you give this Committee that the INS is going to stop acting independently—without regard to Congressional directives or oversight?

*Answer.* The Service has taken steps to work with the Committee's staff to maintain a higher level of information and communication with the goal of supporting the Committee's oversight function through more frequent and productive dialogues.

#### ASSIGNMENT OF ADDITIONAL BORDER PATROL AGENTS

*Question.* After my trip to the California/Mexico border last Winter, there was no question in my mind that the San Diego Sector needed additional Border Patrol agents.

But there has been a good deal of discussion over allocating the 350 to only two locations—300 to San Diego and 50 to El Paso. Granted, you plan to sprinkle the 192 redeployed agents to other sectors along the border but there are some that worry the criminal alien traffic will shift to the areas given less attention.

Could you please briefly describe your fiscal year 1994 border enforcement plan, including the particular assignment of agent strength?

*Answer.* Congress provided \$45 million and 581 positions in fiscal year 1994, of which \$30 million will be used to add 350 new agents and 231 support positions, \$7 million for resource-multiplying technologies, \$6 million to restore proposed cuts to the Border Patrol program, and \$1 million for operational expenses such as lighting, contracts, and transfers. In addition, technology such as infrared scopes and communications equipment, and fully equipped vehicles are being purchased to provide Border Patrol agents the tools to do their job most efficiently.

The 350 new agents will be located in the San Diego and El Paso Sectors. The hiring of the additional support personnel will allow the redeployment of 270 Border Patrol Agents to enforcement duties on the line in nine sectors: San Diego (78), El Centro (10), El Paso (54), Del Rio (16), McAllen (44), Marfa (10), Laredo (10), Tucson (38), and Yuma (10).

*Question.* Do you anticipate that all new and redeployed agents will be on-board and on-duty by the end of the fiscal year?

*Answer.* It is anticipated that all new and redeployed agents will be on-board and on-duty by the end of the fiscal year.

*Question.* When will you conduct your sector-by-sector analysis to determine whether there has been a shift in border traffic that requires a change in the enforcement strategy?

*Answer.* INS is in the process of gathering and analyzing information regarding changes in entry patterns and reasons for possible shifts in illegal traffic on the border. Strategic plans are currently being developed sector by sector across the Southwest border to be able to expand "control through deterrence" and deal with possible shifts in traffic. Placement of resources received in 1995 and the formulation of 1996 requirements will depend on this on-going analysis and strategic planning.

*Question.* I have been told by Senator DeConcini that there has already been a significant shift to the Tucson Sector—since your announcement to focus on El Paso and San Diego, the Tucson Sector has broken its apprehension records and violence is on the rise. Do you expect to address this situation before the end of the fiscal year?

*Answer.* Plans for the Tucson Sector include the hiring of support personnel to permit the redeployment of Border Patrol agents from non-enforcement duties to the line. By the end of the fiscal year, 38 agents will be redeployed in that sector.

Plans for the assignment of new agents have been made for this year. The Service is committed to gaining control of the border through the placement of resources based on strategic plans and the continuous measurement of border enforcement effectiveness. INS will continue to assign all new agents to locations based on an on-going analysis indicating the strategic need for agents to gain that control. The Service does not anticipate changing current plans this year for the assignment of new agents.

#### EXAMINATIONS FEE ACCOUNT

*Question.* This Committee authorized \$347.5 million for the INS Examinations Fee Account in fiscal year 1994. Realizing your revenue projections were down, you only allocated \$305.1 million, an initial reduction of \$42.4 million.

Based on first quarter data, INS determined that their Exams Fee receipts had dropped even further and that an additional \$30 million reduction to \$274.9 million was necessary.

A mid-year review now foresees even fewer receipts necessitating another reduction of \$20 million—bringing the total shortfall in anticipated revenue to \$92.4 million.

What is the reason for this \$92.4 million shortfall in anticipated fee collections?

Answer. A major portion of the shortfall is due to a decline in the number of applications for immigration benefits. The receipts of several large-volume applications have declined. Approximately 36 percent of the projected annual receipts is comprised of relative petitions, naturalization applications, and "green-card" replacement applications. The number of naturalization and "green-card" replacement applications is significantly lower than originally projected. In addition to the decrease in the number of naturalization and "green-card" applications, the amount of revenue generated by relative petitions is declining. The increase in revenue and workload generated from the "green card" replacement program somewhat offset the overall decrease in other areas in fiscal year 1993.

In addition to the large increase in "green-card" replacement applications realized in fiscal year 1993, it is assumed that the increase in naturalization applications received in fiscal year 1993 was a result of the "green-card" program, i.e. immigrants chose to naturalize instead of renewing their "green cards". It is also assumed that a correlation exists between the decrease in the number of each in fiscal year 1994.

Another factor contributing to the fluctuation in applications filed relates to the approximately 3 million persons who were granted amnesty under the Legalization program. As this population adjusted to permanent resident status, they began filing relative petitions for their immediate relatives. This created a large increase in applications filed during fiscal year 1991 and fiscal year 1992. As this group becomes eligible to naturalize, they will continue to generate work over time, but it will generally be of decreasing magnitude.

In addition to the shortfall due to the decline in the number of applications for benefits, fee receipts are below earlier projections as a result of delays in the implementation of a fee rate increase for existing fees.

*Question.* If the revenue shortfall is a result of fewer fee receipts, doesn't that translate into a decreased number of people requesting adjudication services?

Answer. The shortfall is due, in part, to a decrease in the number of applications for immigration benefits.

*Question.* If so, wouldn't it follow that you have a smaller workload and should be reducing the size of your payroll?

Answer. In fee-supported programs, staffing and support are tied to the availability of resources. Adjustments have to be made for workload variations. In the case of the Examinations Fee Account, an extensive analysis of the workload is now being done, along with a review of all resource requirements in the Account, including staffing levels. The Service is not yet in a position to determine whether staffing reductions are warranted. However, the agency has implemented a hiring freeze while this review is being undertaken.

*Question.* If the fee you charge those seeking permanent residence status in the United States includes the funding to recoup your cost of performing fingerprint checks, how would the elimination of those checks have saved your \$3 million?

Answer. Reducing the number of fingerprint checks performed by the FBI would have allowed the Service to use "freed-up" resources to cover existing costs in other areas within the account. This decision was made in view of the need to take decisive action in response to a revenue shortfall in the Immigration Examinations Fee Account and was considered a temporary measure based on the historically low "hit" rate such cases yield.

*Question.* How could you charge the same fee if your costs no longer included the fingerprint check?

Answer. INS would continue to require the submission of fingerprint cards and charge the same fee so that the costs of a fingerprint check would be recovered through the fee in the event that the review of the application for immigration benefits and the FBI name check indicated that the fingerprint check was necessary. The decision to reduce the number of fingerprint checks was made in view of the need to take decisive action in response to a revenue shortfall in the Immigration Examinations Fee Account and was considered a temporary measure based on the historically low "hit" rate such cases yield. In addition, periodic fee reviews are performed to reflect adjustments in processes and related costs.

*Question.* Your fiscal year 1995 request assumes receipts of \$353 million—some \$98 million above the level you're operating at now. Will you be submitting a budget amendment to reflect these lower fee projections?

*Answer.* The Service is still evaluating the fiscal year 1995 projection. Based on preliminary data, we expect fiscal year 1995 to show a small increase over the current fiscal year 1994 projection, but considerably lower than that shown in the fiscal year 1995 Congressional budget. The fiscal year 1995 projection assumes implementation of a rate increase in fiscal year 1994.

As the estimate is refined, further information on the receipt estimates and budget levels will be provided. We anticipate the need to submit a budget amendment for this account and will consult with the Department of Justice and the Office of Management and Budget.

#### PRIORITY RANKING OF IMMIGRATION INITIATIVES

*Question.* The fiscal year 1995 budget request for the INS includes program enhancements totalling \$327 million, the majority of which are requested as part of the Crime Control Fund. I believe the split is \$63 million in the direct appropriation vs. \$264 million in the Crime Fund.

The direct appropriation seeks: \$30 million to promote the naturalization of resident aliens; and \$33 million to strengthen the employer sanctions program.

The Crime Fund seeks: \$181 million to strengthen border control; \$55 million to expedite the removal of criminal aliens; and \$64 million for comprehensive asylum reform.

Does the place from which you are requesting the funding to support your immigration initiatives reflect the importance INS places on the various proposals?

*Answer.* The sources of funding requested for the comprehensive immigration reform initiative do not reflect the importance the Service places on its five initiatives. The three parts included in the proposal for funding from the Crime Control Fund are enforcement-oriented and are covered under the broad scope of activities defined for the Fund as it is defined in the Senate version of the crime bill.

The parts of the initiative which address employer sanctions and naturalization do not appear to be appropriate for funding from the Crime Control Fund as it is currently defined and have been included in the INS Salaries and Expenses request.

*Question.* Is increased border enforcement less important to the INS than promoting the naturalization of resident aliens?

*Answer.* These parts of the total initiative are equally important in addressing significant areas in the Nation's immigration policy. The resources requested for fiscal year 1995 will have a positive impact on what many have come to see as an intractable problem. Past efforts to address border control have been piecemeal and resource levels were not consistent with the nature and extent of the problem being addressed.

Likewise, the naturalization program has not received the attention that it merits within the extensive INS mission. The initiative is a response to the need to help bring newcomers to this country into full participation in our society and its democratic institutions. It is a two-part effort to inform eligible immigrants about the benefits of naturalization and to encourage them to apply. Coupled with this is a plan to streamline the process and add resources to assure that applications are reviewed and acted upon in a timely manner.

There are approximately 5 million legal immigrants in the country eligible for naturalization. In addition to this large group, about 3 million additional aliens who became legal permanent residents under the Legalization Program will become eligible to apply for this benefit in 1994 and 1995. It is in the nation's best interest to inform these individuals about the benefits of naturalization and to encourage them to become citizens.

*Question.* Could you please provide for the record your priority ranking of the particular enhancements the INS has requested?

*Answer.* The five components of the total immigration reform initiative for fiscal year 1995 cannot be separated and ranked. They have been developed as an integrated approach in response to a complex national policy issue which has been given a high priority by the Administration.

Illegal immigration is a continuing problem which threatens this country's immigrant traditions and reduces the ability of State and local governments to provide quality human services. The public has lost confidence in the Federal Government's ability to handle this problem. The Federal role in controlling the borders is clear and it is imperative that the Federal Government take this responsibility seriously. In order to maintain fiscal and economic security, and turn the rising tide of negative sentiment against all immigrants, the Federal Government must take aggressive

sive measures to secure the border and curb illegal immigration and encourage those who qualify to become full participants in our society through naturalization.

This Administration is committed to continue its leadership in finding solutions to this important and controversial problem. The President's goal for reforming the immigration system is straightforward. It includes rebuilding and revitalizing the INS and acquiring the resources to undertake major initiatives to address the immigration problem. The multi-faceted approach presented to the Congress has the potential to bring about changes by: controlling the border; dealing effectively with criminal aliens; reducing the "magnet" of job opportunities; bringing about meaningful reform in the asylum program; and, enhancing efforts to naturalize qualified aliens.

A piecemeal approach to this major problem will not be sufficient. It requires a significant infusion of resources now and a long-term future commitment in order to succeed.

#### BORDER PATROL STAFF INCREASE

*Question.* Many of my colleagues from the Southwest border States continue to tell me that more Border Patrol officers are needed. Their requests come on the heels of the 620 agents that we will hire or redeploy to the border this year.

Your request for fiscal year 1995 seeks an additional \$10 million to hire and redeploy another 390 Border Patrol Agents to the Southwest border, bringing the total additional officers on the border in fiscal year 1994 and 1995 to 1,010. Still, I hear that this is not enough.

Why does your \$181 million request for controlling the border not allocate more than \$10 million to hire and redeploy additional agents to the Southwest border?

*Answer.* The 1995 budget request for additional Border Patrol personnel for the Southwest border takes into account the resources being placed there as a result of the 1994 appropriation as well as the total resource request for 1995 which will lead to the more effective use of existing personnel.

*Question.* It appears the INS has opted instead for "equipment and systems" to control the border. Do you believe this will be more effective than manpower in controlling the border?

*Answer.* The resources that are requested to gain control at the border represent a carefully selected mix of agents, support, and resource-multiplying technologies designed to maximize the enforcement effect of each dollar spent.

In fiscal year 1994, hiring appropriate support staff will allow agents performing non-agent duties, such as welding fences or repairing vehicles, to be returned to the line at a fraction of the cost of hiring a new agent. In fiscal year 1995, investments in key technologies such as automated booking stations, integrated enforcement data systems (ENFORCE), and night vision equipment, as well as additional fencing and lighting will allow both new agents and agents already on-board to be more productive and effective. Agents will spend less time on paperwork and more time performing enforcement duties on the line.

The strategy of "prevention through deterrence," rather than ever increasing apprehensions, is designed to disrupt the "revolving door" at the border. Although agents remain our most important enforcement resource, a lean, well-supported, and well-equipped agent force is the key to maximizing the Service's enforcement dollars.

#### LAND BORDER INSPECTORS

*Question.* I note that your request includes no new funding to hire additional land border inspectors. When I visited the California/Mexico border last Winter, I was shocked by the long lines of cars waiting to cross into the United States. These lines were particularly frustrating to the folks waiting in them when they can see that so many of the lanes are closed and unmanned. I'm told that, at most, only 60 percent of the lines are open during any given time.

It's probably faster to enter illegally—on foot—than waiting to cross through an open inspection lane. Maybe that's why they have those signs that warn motorists of crossing pedestrians instead of deer.

Do you believe there is a need for additional land border inspectors to facilitate traffic at the border?

*Answer.* There is a need for additional land border inspectors to facilitate border traffic. The Service will add 200 inspectors after border service charges go into effect later this fiscal year. The new personnel will have a positive impact on traffic at the ports-of-entry.

Traffic through the ports-of-entry can be facilitated by other means. One approach, already implemented in one location on the Northern border, is the use of

dedicated commuter lanes which expedite the flow of frequent crossers into the country. The Service has been working closely with the Customs Service to open additional projects at locations on the Northern border. However, projects on the Southern border are not permitted pursuant to language contained in the extension of the authorization for the pilot projects.

Another potential means of facilitating traffic at land border ports-of-entry is the automation of the inspection process using biometric technology in performing the inspection. This technology is currently being tested in the INS Passenger Accelerated Service System (INSPASS) at Newark International Airport in New Jersey and at John F. Kennedy International Airport in New York.

This application is being considered for Automated Permit Ports (APP) which are being proposed to facilitate entry to the U.S. for frequent low-risk border crossers in remote Northern border areas. Frequent border crossers from the local area, who have applied and been granted a special entry permit, will be able to enter the country through the port at times when officer staffing is not available and the port is normally closed. The system will use biometric data (i.e., hand print characteristics) to compare with locally-stored data on the entrant's physical characteristics. The use of APP's would be voluntary and a fee would be charged.

*Question.* In last year's appropriation bill, we authorized the INS to hire 200 new land border inspectors. The revenue to hire these inspectors was to come from a new fee to be charged for replacement border crossing cards.

Has this new fee for replacement border crossing cards been promulgated by the INS yet?

*Answer.* The rule has not yet been issued. A proposed rule to charge fees for services at land border ports-of-entry is in a 60-day comment period which ends June 13, 1994. The rule is anticipated to be effective in September 1994.

*Question.* Will the new fee be implemented before the end of the current fiscal year?

*Answer.* It is anticipated that the rule will be effective in September 1994.

*Question.* If so, can we expect the hiring of any additional land border inspectors prior to the end of the fiscal year?

*Answer.* Once the regulation becomes effective and fees are being collected, INS will be able to begin hiring the additional inspectors. Since the new fees will be in effect quite late in the fiscal year, the Service plans to fund these positions in fiscal year 1995.

*Question.* What kind of financial management steps are you taking to insure the revenue raised from this new fee is used solely for the hiring of additional land border inspectors and not to meet the shortfall in the Examinations Fee Account?

*Answer.* The Service plans to establish unique Examinations Fee Account codes within the financial management systems to identify the new fees. The fees have been set to cover the costs associated with services provided at land border ports-of-entry. The costs include the funding of additional land border inspectors, document processing, card production, and administrative and support activities required to perform these services.

#### AIRPORT INSPECTIONS

*Question.* Last year, the Conference agreement included a \$1 increase in the inspection user fee charged air and sea travelers entering the United States. I believe the fee went from \$5 to \$6 and shows up as part of the ticket price.

This increase was expected to generate over \$50 million in resources to help fund an overseas pre-inspection program, a carrier consultant program, and additional detention at international airports.

We took a great deal of heat from the Air Transport Association for increasing this fee but promised them expedited inspection services.

What is the status of the initiatives that were to be funded from this increased revenue?

*Answer.* Total Immigration User Fee Account collections for fiscal year 1994 are estimated to be \$276.1 million, exclusive of fines for enforcement activities. Of this amount, \$34.3 million is expected to be collected as a result of the \$1 increase in the fee. With this resource level, the Service has moved ahead with the enhancements for inspections personnel which were included in the budget request and the airport detention expansion added by the Conferees.

In the absence of authorizing legislation, the Service has not been able to take action on the items approved by the Conference Committee for the implementation of an expedited exclusion process. The Service is continuing its efforts to expand pre-inspection operations overseas. Some progress has been made with the governments of the Netherlands and Belgium.

**Question.** Do you have any plans to use some of these increased fee receipts to hire additional inspectors here in the U.S.? If so, when do you plan to authorize the districts so that they can begin the hiring process?

**Answer.** The Service anticipates that increased receipts will be used to hire additional inspectors. Positions will be allocated to several districts, including Miami and Los Angeles.

**Question.** I have heard that some districts are moving very slowly in filling already-funded yet vacant inspector positions. I think 20 percent of the funded inspection positions at Miami International Airport are currently vacant. Is this true?

**Answer.** Overall, the districts move as quickly as possible to fill positions after an allocation has been received. Some are able to move faster than others due to the availability of qualified personnel in the recruiting area. In the case of the Miami International Airport, 22 permanent positions were assigned to that location in February, temporarily raising the vacancy rate at that airport.

**Question.** With the peak tourist season quickly approaching, could you please review these funded vacancies and do what you can to fill them so we don't start hearing from our carriers that the INS is not upholding their part of the bargain?

**Answer.** The Service is aware of the need to have positions filled in advance of the peak international travel season. Steps have been taken to authorize positions on a timely basis to allow adequate lead time to recruit and hire to fill new positions as well as vacancies.

#### NORTH AMERICAN FREE TRADE AGREEMENT

**Question.** Much of the debate on the North American Free Trade Agreement (NAFTA) was focused on trade and commercial issues and not on border control.

I am concerned that the implementation of NAFTA will not only increase drug trafficking across our southwest border but also make it more difficult to keep illegal aliens from entering our country.

Has the INS developed any estimates as to the increased resources it might need as a result of NAFTA's full implementation?

**Answer.** The Service does not expect NAFTA to have a significant impact on immigration inspections or on illegal border crossings. The greatest impact of the agreement will be associated with cargo and commercial traffic which will affect the Customs Service.

There is a study in process with the General Services Administration, the Customs Service, and INS to develop six-year facility plans which will include consideration of the impact of the trade agreement. INS will participate in this study and will use its results to assess future resource requirements.

**Question.** Is any of your \$181 million initiative for "Controlling the Border" a result of an estimated workload increase due to NAFTA's implementation? If so, how much?

**Answer.** The initiative for "Controlling the Border" does not contain resources related to workload changes resulting from NAFTA's implementation.

#### INCREASED DETENTION CAPACITY

**Question.** Last year, the Committee provided \$40 million to substantially increase the detention capacity of the INS in Buffalo, New York, San Francisco, California, El Paso Texas, and Krome, Florida.

What is the status of these construction projects?

**Answer.** The Bureau of Prisons has forwarded \$40.3 million to the Service for the four projects. The contracting process and architectural and engineering studies have begun for all of the facilities. Site selection has begun for the San Francisco and Buffalo projects.

#### NATIONAL CRIMINAL ALIEN TRACKING CENTER

**Question.** My understanding is that about 25 percent of the inmates in the Federal prison system are foreign born. Many of these inmates may be naturalized citizens, but many also are probably illegal aliens who may be subject to deportation.

To address this problem, the 1988 Crime Bill and the Immigration Act of 1990 called for the creation of a National Criminal Alien Tracking Center to help Federal, State, and local law enforcement determine when individuals arrested for serious crimes are aliens who may be subject to deportation.

In fiscal year 1994, this Committee directed the INS to begin implementation of the tracking center. What is the status of that implementation?

**Answer.** The NCATC will begin operating as a pilot project at the Eastern Regional Office, Burlington, VT, in June 1994. The scope and duration of the project are limited. The period of operation will run six months. The scope of the operation

will be limited to the receipt of inquiries from law enforcement agencies in the State of Arizona.

Following completion of the pilot project, a thorough evaluation will be carried out to assess the basic soundness and operational effectiveness of the project.

The full-time enforcement communications resource that the NCATC promises will provide both the external law enforcement community and the Service with a rapid and reliable mechanism to assist in the identification and removal of aliens convicted of aggravated felonies from the U.S. following their conviction and completion of their sentences.

*Question.* While the Committee is aware that INS plans to run the tracking center on a limited basis in an initial developmental period, does the INS expect it to be fully operational by fiscal year 1996?

It is not yet possible to state that the NCATC will be operational by 1996. The Department and the Service have agreed to await the results of the evaluation of the pilot project before obtaining funding for a permanent center. A funding level for 1995 has not been determined.

The Service is developing an automated enforcement casework system, ENFORCE, that would facilitate the availability of the information needed by the analysts at the NCATC. Once operational, ENFORCE will consolidate the information used by analysts at the Center. As a result, fewer employees and less space will be needed for the criminal alien tracking function than under current technology.

A permanent location for the center has not been designated.

*Question.* What will be the operational costs of the tracking center once it is fully implemented?

*Answer.* The operational costs of the fully-implemented tracking center cannot be estimated until the test has been carried out and evaluated.

#### RELEASE OF IMMIGRANTS—FAILURE TO APPEAR FOR HEARING

*Question.* It is my understanding that current aliens who arrive in our country without proper documentation are called "excludables". Under current immigration law, these aliens are to be detained.

What appears to be happening, however, is that the INS books these aliens arriving by boat—as the 400 or so Haitians just did—into a detention facility and then "paroles" them into the community. However, I am told by an immigration judge just this morning that his no show rate in court runs from 60 to 80 percent.

Why is this allowed to happen when the law requires that excludables be detained until their hearing?

*Answer.* The statutes allow the Service to release aliens into the community under certain circumstances. The aliens cannot be a threat to the safety of the community. They must have sponsorship which may be family members or groups within the community that can provide support for the aliens as well as assure that they appear at hearings.

*Question.* Does the INS have the ability to track aliens they have released that fail to appear for hearings?

*Answer.* The Service has the ability to track these aliens based on the information placed in their files prior to being released. Aliens are required to notify the Service in the event they move within the community.

*Question.* I've heard the number of aliens that are in this country illegally but are not seeking asylum or fail to appear for hearing is over 5 million? Can you verify these numbers?

*Answer.* The Service has done research on this topic and estimates that the number of illegal aliens currently in the country is approximately three million. This estimate is recognized as the most reliable available. For example, it is used by the U.S. Bureau of the Census in their work regarding illegal aliens in the country.

#### NATURALIZATION INITIATIVE

*Question.* I see where \$15 million of your \$30 million naturalization initiative is for "grants to enhance public awareness relative to the benefits of naturalization".

I was always under the impression that the majority of aliens entering this country to live do so because they wish to remain here as citizens.

In these times of fiscal constraints, why is it necessary to publicize these benefits through a public awareness campaign?

*Answer.* The assumption, held by many Americans, that most aliens desire to remain in the U.S. as citizens is not borne out by data on naturalization collected by INS. The majority of aliens, while remaining in the country indefinitely as permanent residents, do not ultimately obtain citizenship. Studies done by the Service in-

dicating that at least 60 percent of lawful permanent residents never become citizens. These are the people who INS will be addressing in the public awareness campaign.

Many worry about the citizenship test and the interview with an Immigration Examiner. Some do not want to eliminate the possibility of returning to their homelands. Through the initiative, public information and education campaigns will be used to familiarize resident aliens with the naturalization process, address their concerns, and answer many of their questions.

*Question.* The other \$15 million in your \$30 million naturalization initiative is to improve the adjudications process and reduce the backlog of these cases.

In the past, funding for these expenses have been provided through your Examinations Fee Account. And, if I'm not mistaken, the Immigration and Nationality Act requires the INS to set these examinations fees "at a level that will ensure recovery of the full cost of providing all such services".

Why should taxpayers be asked to help pay these adjudications and naturalization expenses, when the individuals receiving the benefit are required by law to pay a fee equal to those expenses?

*Answer.* The initiative is a response to the need to help bring newcomers to this country into full participation in our society and its democratic institutions. It is a two-part effort to inform eligible immigrants about the benefits of naturalization and to encourage them to apply. Coupled with this is a plan to streamline the process and add resources to assure that applications are reviewed and acted upon in a timely manner.

Appropriated funding is requested because the Immigration Examinations Fee Account is not expected to be capable of supporting the naturalization initiative in 1995. Although INS could have requested funding authority from the Account for this initiative, the funds would not be available until the applications were received, thereby creating a lag between the work the Service intends to produce and the resources necessary to do the work.

The timing of the funding is critical to acquiring additional personnel and resources needed to carry out activities related to process improvements and to adjudicate the anticipated increased workload. The initiative is designed to encourage applications. A large number of aliens who were legalized under provisions of the Immigration Reform and Control Act of 1986 will become eligible to naturalize in 1994, with the majority becoming eligible in 1995 and 1996. Naturalization workload is expected to increase during this period and remain above levels which have been experienced in the recent past.

The emphasis of the initiative is focused on encouraging and promoting naturalization. The Administration believes that it is in the Nation's best interest to have the largest possible number of permanent legal residents fully involved in their communities as citizens.

The grants initiative encouraging naturalization is an indirect cost of the naturalization expense. Therefore, it is not directly related to the processing of the application. The funds requested to improve the process are similar in that the Service is taking measures today that will benefit all future applicants, not just some, during the next few years. The cost is more appropriately borne by the appropriated account. In addition, when Congress passed the Immigration Act of 1990 it provided for a citizenship promotion program in Section 406, to be paid from appropriated funds.

Section 286(m) of the Immigration and Nationality Act states that " \* \* \* fees for providing adjudication and naturalization services may be set at a level that will ensure recovery of the full costs of providing all such services \* \* \*." The Act permits full recovery. It does not require it.

*Question.* Is the fee charged for these adjudication services too low to cover the full cost of the program?

*Answer.* The fee for naturalization does not cover the full cost of the program when the cost of the initiative is included.

*Question.* Why not increase the fee rather than pass the cost on to the taxpayer?

*Answer.* There are approximately 5 million legal immigrants in the country eligible for naturalization. In addition to this large group, about 3 million additional aliens who became legal permanent residents under the Legalization Program will become eligible to apply for this benefit in 1994, with the majority becoming eligible in 1995 and 1996. It is in the Nation's best interest to inform these individuals about the benefits of naturalization and to encourage them to become citizens.

It is expected that there will be a surge of applicants as individuals who became legal permanent residents under the Legalization Program become eligible for citizenship. The Service wants to prevent backlogs from occurring due to this anticipated surge. In order to do this and to maintain and improve services to applicants,

it is necessary to make an "up front" investment in the naturalization program. The initiative will provide this needed investment.

#### DEPORTATION OF CRIMINAL ALIENS

*Question.* Roughly 26 percent of the Federal prison population is comprised of criminal aliens. The Federal prison system is seeking an operating budget of \$2,406,952,000—an increase of \$457 million over fiscal year 1994.

On Friday, April 22nd, the Administration submitted a budget amendment which seeks \$350 million to reimburse seven States for their costs of housing criminal aliens convicted of felonies in those States.

By my calculations, that's \$976 million to house criminal aliens in State and Federal prisons.

Are these criminal aliens deported after serving their sentences?

*Answer.* Some aliens are deported after serving their sentences. Their deportation is not automatic and is dependent upon the offenses committed as well as other factors which are taken into consideration when action is taken against aliens with criminal records.

*Question.* What prevents us from deporting these criminal aliens before incarceration?

*Answer.* In cases where aliens are convicted of a State or Federal offense (or enter a guilty plea) and are sentenced to prison, provisions of State and Federal criminal statutes would prevent the deportation of these individuals before they serve their sentences unless their sentences were commuted.

*Question.* My thinking here is—we could take the \$976 million we are spending to house criminal aliens and invest it instead on strengthening border enforcement as well as improving the asylum process to ensure these criminal aliens don't arrive in the first place. Any comments?

*Answer.* It is necessary to provide resources for both of these important activities. Strengthening border enforcement would reduce but not eliminate illegal entries through and between the established ports-of-entry. It is likely that the need to provide resources to house criminal aliens in the Nation's prisons could eventually decline as a result of enhanced border management. It is not possible to predict at this time to what extent this might occur and the level of border enforcement that would be required.

#### HAITIAN REFUGEES

*Question.* On Friday, more than 400 Haitian refugees were intercepted by the Coast Guard and taken into custody by the Immigration and Naturalization Service. I believe they were taken to the Krome Detention Center which is already full of detainees.

In the past, when Haitian refugees have been intercepted by the Coast Guard, they were forcibly returned to Haiti.

Does this action signal a shift in policy toward accepting Haitian refugees?

*Answer.* The action which was taken in this incident is not a shift in policy. It was based on the circumstances specifically related to the vessel, its passengers, and the vessel's crew.

*Question.* As conditions worsen in Haiti, can we expect an exodus to this country during the next few months? If so, will we be accepting these refugees rather than returning them to Haiti?

*Answer.* The Service is following events in Haiti very closely. It is not possible to predict the magnitude of the refugee flow based on current information. Several alternatives to bringing Haitians to this country will be available for the processing of persons interdicted by the Coast Guard. The potential alternatives are being reviewed by an interagency task force under the guidance of the National Security Council.

*Question.* Does the INS have available detention space to hold these refugees if they are accepted in the United States?

*Answer.* The Service would not be in a position to detain large numbers of Haitians in Service-owned facilities. Additional detention space would have to be obtained from non-Service sources. Contingency planning is being conducted to identify available detention space, including Department of Defense installations, to detain any large migrant flow.

## QUESTIONS SUBMITTED BY SENATOR ROBERT C. BYRD

## FINGERPRINTS

*Question.* On April 14, 1994, Chairman Hollings and I wrote to Attorney General Janet Reno expressing our dismay and serious concern over the major policy shift regarding the process of conducting fingerprint checks, apparently implemented unilaterally by the Department of Justice and the Immigration and Naturalization Service (INS) on April 1, 1994. I have a copy of the letter and ask that it, along with the associated news account, be included in the record at the conclusion of this question. According to the news account, the system of fingerprint checks prevented nearly 9,000 people from acquiring immigration status here last year because of a felony conviction or some other serious criminal matter on record with the FBI. In other words, the fingerprint check system prevented 9,000 more potential criminals from achieving permanent resident status last year—a status that would allow these individuals to prowl the streets and prey upon our citizens. On April 18, 1994, I was informed by the Attorney General that the Department of Justice had rescinded the INS policy of eliminating the practice of fingerprint checks for immigrants applying for permanent residency or citizenship in this country.

The Department of Justice Inspector General's report on Alien Fingerprint Requirements in the Immigration and Naturalization Service, dated February 1994, indicates that, "The FBI fingerprint checks are the only practical means available for determining if an applicant for INS benefits possesses an arrest record." Would you like to respond as to why the INS decided to eliminate the practice of conducting FBI fingerprint checks on immigrants seeking residency status?

LETTER FROM SENATORS ROBERT C. BYRD AND ERNEST F. HOLLINGS

APRIL 14, 1994.

Honorable JANET RENO,  
*Attorney General, Department of Justice, Washington, D.C.*

DEAR GENERAL RENO: We are writing to express our dismay and serious concern over a major policy shift implemented by the Department of Justice and the Immigration and Naturalization Service on April 1, 1994. According to newspaper reports, due to "the current budget situation" the INS has virtually eliminated the practice of fingerprinting all immigrants attempting to enter this country. We note that the fiscal year 1994 appropriation for the INS included a \$129 million increase for immigration enhancement. Had proper procedures been followed, a reprogramming to request a transfer of funds from one portion of the INS budget to another could have been submitted to the Committee.

As you are aware, Section 605 of the Fiscal Year 1994 Commerce, Justice, and State, The Judiciary, and Related Agencies Appropriations Act, and similar provisions that have been included in Appropriations Acts for years, sets forth a consultative process by which changes to the program funded by Congress may be mutually agreed to. Not only is this latest action by the INS a violation of the spirit of comity between the Committee and the Department, but a violation of the statute itself.

Further, we find this policy change an embarrassment to the President and the Democratic leadership which shepherded his immigration initiative through the appropriations process last year. The elimination of fingerprint checks for immigrants entering this country, or applying for citizenship, not only undermines the credibility of the President's illegal immigration initiative, but the action shows a clear disregard by the INS for the integrity of our nation's borders and the safety of the citizens of this country.

Using only name checks based upon personal description and date of birth has been demonstrated to be extremely inconsistent since criminals and terrorists routinely use false identities and documents to gain entry into the United States. Even if only 9,000 of the 890,000 fingerprint checks performed on immigrants last year resulted in a denial of citizenship or permanent residency because of a serious criminal history, we firmly believe the citizens of the United States are safer because these known criminals are not stalking our streets and communities.

Let us also point out the budget implications this policy will have on the Department of Justice as a whole. While the INS claims to be making this move in an effort to save \$3 million during the remainder of the fiscal year, discontinuing the submission of INS fingerprint cards will also reduce the Federal Bureau of Investigation's Federal User Fee program by \$3 million during the same time period. This equates to nearly 100 FBI support employees—all currently on board—whose jobs are now in jeopardy due to this ill-advised INS decision. We strongly object to this attempt to solve one agency's budget shortfall by exacerbating the funding situation of another.

We urge you to immediately rescind this decision and, instead, follow the procedures set forth in Section 605 of Public Law 103-121 to address the current budget situation the INS now finds itself in.

Sincerely,

ROBERT C. BYRD,  
*Chairman, Committee on Appropriations.*

ERNEST F. HOLLINGS,  
*Chairman, Subcommittee on Commerce, Justice, State, The Judiciary.*

[From the Washington Post, Apr. 14, 1994]

#### U.S. HALTS IMMIGRANT FINGERPRINT CHECKS

(By Roberto Suro)

Despite administration pledges to crack down on criminals and terrorists slipping into the country as immigrants, the federal government has stopped running routine fingerprint checks on immigrants, a procedure that has blocked thousands of people a year from entering the United States because of criminal records.

In a policy change effective April 1, the Immigration and Naturalization Service (INS) now will send only a handful of fingerprints from prospective immigrants to the FBI for a criminal record check and only in exceptional cases.

Applicants for a wide range of immigration benefits including citizenship, permanent residence and political asylum will continue to submit fingerprints to the INS.

An internal memorandum from INS headquarters here to offices around the world states that although the agency "is taking this action reluctantly, it is necessary due to the current budget situation."

Richard Kenney, an INS spokesman, said the agency hopes to save \$3 million the remaining six months of the fiscal year by drastically reducing what he termed "an expensive, labor-intensive process."

In 1993 nearly 890,000 sets of prints were sent to the FBI for criminal record check, and less than 1 percent had applications turned down, Kenney said.

That amounts to nearly 9,000 people who were kept from acquiring immigrant status here last year because they had been convicted of a felony or had some other serious criminal matter on record with the FBI.

In the wake of the shooting outside the CIA headquarters in Langley, the World Trade Center bombing in New York and other recent violent incidents, there has been growing public concern that terrorists and other malefactors are too readily entering the United States as immigrants.

The costs of incarcerating immigrants who commit crimes once they are in this country has been a further cause of concern, lawmakers say.

With Congress demanding action, President Clinton unveiled a package of proposals July 27 which he said would deal with "the growing problems of immigrant smuggling and international terrorists hiding behind immigrant status."

Among the measures promised was greater coordination among federal agencies.

Attorney General Janet Reno complained at the announcement ceremony that the INS "too often did not communicate with law enforcement and vice-versa." She said, "It is imperative that we bring everyone together to communicate to do everything that we can to address the critical issue of terrorism."

Demetrios Papademetriou, director of the immigration policy program at the Carnegie Endowment, said, "On the fact of it giving up this form of cooperation with the FBI seems rather inconsistent with the administration's law-and-order body language on immigration."

The memorandum ordering the new policy makes clear budget constraints are behind the change. Aside from cases involving orphans coming into the United States, the memorandum calls for a 95 percent cut in FBI fingerprint checks and requires senior regional officials to submit a written justification for every request to INS headquarters.

Kenney of the INS said no specific criteria had been developed for determining what would now justify a fingerprint check. He said adequate screening would be accomplished by checking applicants' names in data bases with the identities of known criminals.

Answer. The decision was made in view of the need to take decisive action in response to a revenue shortfall in the Immigration Examinations Fee Account. The action regarding fingerprint checks on one of a number of steps which had to be taken to reduce costs in the account. The decision, which has since been rescinded, was not a major policy shift, but a temporary measure based on the historically low "hit" rate such cases yield. The Service's fingerprint policy is now undergoing a complete review. When this is done, the Congress will be informed regarding the find-

ings of the review and actions which should be taken to correct deficiencies and to improve the process.

With regard to costs related to fingerprint checks, the Service determined that there would be a \$4.6 million shortfall in funds to pay for FBI services for the balance of the fiscal year. The anticipated fingerprinting expenses for the remainder of the year (April 1–September 30) amounted to \$7 million. The available funds were estimated to be \$2.4 million, with no funding available from other sources.

*Question.* The news article alludes to the tight budgetary situation as a reason for eliminating the fingerprint checks. To what extent is the so-called budget situation due to the fact that the INS has not raised its fees along with the rising costs for processing immigrant applications?

*Answer.* The shortfall in fee receipts that is being experienced in the Immigration Examinations Fee Account is the result of the combined impact of a delay in implementing a general fee increase and a decline in applications for immigration benefits.

*Question.* The Department of Justice Inspector General's report dated February 1994, indicates that during the next three fiscal years, INS could receive an additional 2.5 million applications for naturalization over and above the current annual submissions, which in 1993 was 890,000. Do you plan to raise application fees to cover these future costs of processing immigrant applications? If not, why not?

*Answer.* It is noted that the Service received 522,407 applications for naturalization in fiscal year 1993. The general fee increase which is expected to go into effect in July 1994 will include an increase in the fee for naturalization. Future costs for the processing of naturalization applications will be paid by these fees and by resources requested in the fiscal year 1995 budget request for naturalization program improvements. INS is in the process of procuring an assistance and advisory services contract related to the fee setting process and fee structures.

*Question.* What steps has the INS taken to assure that the fingerprints associated with an application are truly the fingerprints of the individual filing the application?

*Answer.* The Service has appointed a fingerprint working group, which is comprised of representatives from the Adjudications and Naturalization program and enforcement and management programs. INS has invited the FBI and the Office of the Inspector General (OIG) to participate.

This group is charged with the primary task of promulgating regulations to correct deficiencies and improve efficiency in the fingerprinting process. INS must put integrity back into the process of fingerprinting. To accomplish this goal, the Service must insure that the person being fingerprinted is the person applying for the immigration benefit. The Service has already begun the process of formulating a Memorandum of Understanding (MOU) that will be applied to all outside entities taking fingerprints. This will be part of the regulation package.

*Question.* The Inspector General's report stated that the INS began phasing out fingerprint services ten years ago because of lack of resources. Is it not true that applicants are instructed by the INS to complete the fingerprint cards before they apply at an INS district office?

*Answer.* It is true that over the past several years many INS field offices had to stop providing fingerprint service due to resource shortages, e.g., personnel, funding, and office space. As this happened, more voluntary agencies started providing these services to the community. As the demand increased, more commercial entities began providing fingerprint services as well. These factors certainly contributed to the present situation which INS is addressing as a high priority.

The working group will study the present ineffective fingerprint process and make recommendations regarding needed improvements. The findings of this group and the OIG, as well as input from numerous sources through the proposed rulemaking process, will ensure that the current process is improved.

*Question.* How does the INS verify that the fingerprints being submitted are actually the fingerprints of the individual on the application?

*Answer.* Currently, this is the responsibility of the individual or agency taking the prints.

*Question.* The potential for fraud with fingerprint submissions has been raised with INS Headquarters. The Inspector General's report indicates that an October 1991 memorandum from the Baltimore INS Director states that some vendors were providing fingerprinting services out of the trunks of their cars. If one were an applicant with a criminal history record seeking entrance into this country, what would prevent one from using someone else's fingerprints on the card to obtain residency?

*Answer.* Currently, there are no procedures that would prevent this from happening. Normally, fingerprint cards are submitted to the FBI at the beginning of the

clerical processing of the application (pre-interview stage of processing). The alien does not appear before an immigration officer until at least 60 days later to allow time for the various record checks, including the fingerprint check, to be completed.

INS is developing a procedure whereby a copy of one of the prints would be electronically lifted from the fingerprint card before its submission to the FBI and retained in the file. When the applicant appears for interview, the officer would be able to make a new impression of that fingerprint and compare it to the one on file, thereby verifying identity.

*Question.* In effect, a criminal alien, with his own ink pad, could take someone else's prints and submit the card as his own to INS. Should the process be tightened up? If not, why not?

*Answer.* The process should be tightened up. It should be noted, however, that regardless of any actions INS takes, an applicant intent on concealing his or her identity and criminal history could elect to immigrate using the visa process through a Department of State consular post overseas, thereby avoiding the fingerprinting procedure altogether.

*Question.* The lack of internal control of fingerprints escalates into other more costly problems. In fiscal year 1993, 91,827 fingerprint cards, or 11 percent of the total INS submissions, were rejected by the FBI as unclassifiable. This is largely due to smudged or illegible fingerprints. The application was then adjudicated by the INS on the basis of the name check only. The result was that the FBI was unable to conduct a search using the fingerprint classification and conducted a name search. A name search is flawed if the applicant used an alias on his/her application or at the time they were arrested. Is that not correct?

*Answer.* It is correct that the effectiveness of a name search is thwarted if the individual uses an alias at the time of criminal arrest or during INS proceedings. This problem applies to all law enforcement activities, not simply INS. In fact, the Service may have less of a problem in establishing identity in the applicant, since INS normally requires a higher level of positive identification (e.g., a passport during the adjustment process or the Service-issued alien card during the naturalization process).

*Question.* The FBI charges INS the \$17 user fee even if the prints are unclassifiable. However, the FBI does permit INS to submit a second set of prints at no charge. How many of the 91,827 fingerprint cards that were rejected in fiscal year 1993 by the FBI as unclassifiable did the INS return to the FBI? Is it not true that only 1.4 percent or 1,313 fingerprint cards were returned?

*Answer.* Service policy requires the submission of two sets of fingerprints with each application. These fingerprints are to be reviewed on acceptance, and, if found not clear and complete, rejected and returned to the applicant with instructions to submit new fingerprints. Once acceptable fingerprints are obtained, one set is forwarded to the FBI and the second is retained in the alien's file.

If the prints forwarded to the FBI are determined to be unclassifiable by their fingerprint classifiers, the FBI conducts a name check and returns the prints to the INS field office. That finding is to be immediately brought to the adjudicating officer's attention. At that time, the district director has discretionary authority to do one of two things: complete action on the pending case based on the evidence available or submit the duplicate prints (previously retained in the case file) and either withhold adjudication or complete action on a post-audit basis.

While INS has no statistical information at this time to confirm the figures provided by the FBI to the OIG, the Service believes the 1.4 percent return rate may be low due to the possibility that some offices do not accurately follow FBI resubmission procedures. In these cases, the Service is billed twice for the submission, and it does not show on the Federal User Fee Listing as a resubmission.

On March 17, 1994, INS Headquarters directed field offices to review existing procedures in this regard and to advise Headquarters of their findings. In addition, where policies are not properly followed, the field control offices are required to prepare and submit a corrective action plan.

*Question.* Multiplying the remaining 90,514 rejected fingerprint cards by the FBI user fee of \$17 represents an investment of \$1,538,738. However, the INS was satisfied with a name check in these 90,514 cases, even though the agency paid for a fingerprint check. How do you explain the lack of follow-up by the INS staff?

*Answer.* There are actually two problems involved. The correct procedure is for the local INS office to attach the first, rejected, set of prints to the second set before resubmitting, thereby enabling the FBI to identify the cards as a resubmission and not charge the Service an additional fee. In some cases, a second set of cards was not submitted at all. In other cases, the second set was submitted but the first, rejected, set was not attached, causing INS to be charged twice for the fingerprint check for one individual.

The Service does not have data regarding the frequency of these occurrences. It must be noted that locating the file, contacting the individual, reprinting and reclearing are costly processes which place additional stress on the program's resources.

*Question.* For an agency that cites lack of funds for controlling and solving this crisis as an excuse, I am concerned that the funds the agency does have are not being used to the best advantage because of a lack of follow-up and the resubmission of new fingerprint cards for those previously unclassifiable by the FBI. Do you have any comment on this?

*Answer.* The Service is concerned about the deficiencies noted and is developing processes which will address the problem. INS has recently begun receiving from the FBI and distributing to the field offices lists of all cases wherein the fingerprints were rejected. Local offices will be responsible for pulling the related files and ensuring that proper followup action has taken place. Regional offices will conduct unannounced random checks to further ensure that such followup action has taken place.

*Question.* In an Inspection Report, Alien Fingerprint Requirements in the Immigration and Naturalization Service, February 1994, the Inspector General cited various deficiencies with regard to INS control over the fingerprinting process and recommended that procedures be adopted to verify that fingerprints submitted actually belong to the applicant. In your response, you promised a new policy by March 15, 1994. Is that policy in place? If so, please describe it in detail, or if not, why not?

*Answer.* Initially, the Service thought that a new policy could be issued through a Service-wide memorandum. It was later determined that, because the current procedures are set forth in regulation, INS would have to issue a proposed rulemaking before instituting a new policy. The Service is in the process of developing policy through the rulemaking process which will address this issue.

The Service believes that this process, coupled with the aforementioned verification of identity through the comparison of the electronically-lifted file print to a new print taken during the interview, will address the problem.

*Question.* If the policy is not finalized, would you outline the steps that you are considering to address this deficiency?

*Answer.* The proposed rule will state that the Service will only accept fingerprints which have been taken by the following:

1. Employees of the Immigration and Naturalization Service who have received proper training in identifying aliens and taking fingerprints;
2. Employees of recognized law enforcement agencies which have been contacted for this purpose by the local INS field office as part of their on-going law enforcement liaison function;
3. Employees of outside entities (including voluntary agencies) which have signed a Memorandum of Understanding (MOU) with the INS field office agreeing to abide by the following conditions: the entity will not allow employees to fingerprint aliens for INS purposes, except under the conditions set forth in the MOU; the entity will ensure that positive identification is received from all aliens seeking fingerprinting services; only employees who have received training from INS or the FBI will be allowed to take fingerprints; the name and signature of each employee allowed to take fingerprints, along with pertinent information regarding the training received by that employee, will be submitted to the INS field office which will maintain a record such information; should the entity violate the conditions of the MOU, the INS field office shall have the authority to suspend, without prior notice, the entity's authority to fingerprint aliens for INS purposes; upon review of the suspension by the regional director, the suspension will either be made permanent or lifted once relevant correction action has been taken; and, any other criteria to be developed as part of the rulemaking process.

It is recognized that upon consideration of comments from interested parties, the final rule may be different from the proposed rulemaking.

*Question.* In your response to the Inspector General findings and recommendations concerning the handling of fingerprint cards and arrest records, you promised to instruct offices to review procedures and implement changes by April 1, 1994. Please describe in detail the status of these improvements and how you intend to monitor the process.

*Answer.* INS is reviewing the responses from the field offices and determining where additional steps are necessary. The field offices have been notified regarding the planned monitoring of their compliance with fingerprint processing procedures.

*Question.* I am disappointed that the INS embarked upon a policy of elimination of FBI fingerprint checks for aliens. Now is not the time to eliminate fingerprint checks. I need only point to the World Trade Center bombing in New York, or the murders of CIA employees outside the CIA Headquarters, as two instances of terror-

ism by aliens in our country. Actions must be taken to stop lawbreakers from taking up residency in our country.

How will the new FBI Integrated Automated Fingerprint Identification System, now being developed at Clarksburg, West Virginia, and expected to be fully operational in 1998, help the INS be more effective and efficient in the area we have discussed? Please elaborate for the record.

Answer. The INS Automated Fingerprint Identification System (AFIS) project is primarily intended to positively identify aliens of interest to the Service and repeat offenders of immigration law by implementing an advanced technology, computer-based fingerprint storage and retrieval system. The AFIS architectural design is the establishment of remote AFIS terminals with access to on-line fingerprint databases. The primary fingerprint databases will be composed of persons of unique interest to INS and persons who are repeatedly apprehended for border crossing violations. Additional access to other Federal, State, and local law enforcement fingerprint databases, such as the FBI's NCIC-2000, the California Department of Justice (CAL-DOJ) AFIS, and the Western Identification Network (WIN), will also be required to ensure complete coverage and positive identification of criminal suspects. Likewise, the FBI will have automated access to the INS fingerprint database.

All INS AFIS remote terminals will have the ability to transmit standard fingerprint images to the FBI Integrated Automated Fingerprint Identification System (IAFIS) for 10-print submissions, which account for approximately 30 percent of all civil 10-print submissions to the FBI.

An on-going INS/FBI working group exchanges ideas and technology, and explores areas where both agencies can work jointly in developing AFIS systems that will meet both agencies' needs. This group meets on a monthly basis, with more frequent contacts as required. In addition, quarterly executive group meetings are held to address policy issues and to coordinate the direction of the agencies' AFIS projects.

#### QUESTIONS SUBMITTED BY SENATOR DANIEL K. INOUE

##### DETENTION OF SMUGGLED CHINESE ALIENS

*Question.* On the evening of April 6, 1994, a raid on a suburban Maryland house by INS resulted in the arrest and detention of sixty-four Chinese nationals. Most of these people were found in the basement, being held for ransom by Chinese smugglers. Initially, they were all detained at the Wicomico County Jail in Salisbury, Maryland. The Asian-American community learned that many of these Chinese detainees had been held hostage and had been beaten and tortured by their captors. On April 8, 1994, the Asian-American community, represented by the Asian Pacific American Bar Association, requested a humanitarian visit with these detainees at the Wicomico County Jail but was denied any access by John O'Malley, INS Assistant District Director in Baltimore.

Commissioner Meissner, can you explain to the subcommittee why the Asian American community was denied this humanitarian visit?

Answer. As a general policy the Immigration and Naturalization Service (INS) limits access to persons whom it detains to individuals and organizations who actually know the detainee and can identify him by name. This applies to attorneys, the press, and private citizens who are relatives of the detainee. The INS policy, in this instance, coincides with the policy of the Wicomico County Jail where the aliens were detained.

On Friday evening April 8, after normal business hours, the INS Baltimore office received a call from Ms. Francey Lim Youngberg, representative of the Asian Pacific American Bar Association (APABA). Ms. Youngberg indicated that while her organization was not representing the aliens, APABA wanted to ensure that the aliens were aware that such legal representation was available. She also indicated APABA wanted to determine whether or not the aliens were being fed and given proper care.

It would be highly unusual for any person or organization, without specific accreditation or regulatory authority to be permitted into a detention facility for the purpose of evaluating conditions of custody. It would also be unusual for a group of attorneys to ask to meet with aliens in custody so that they can explain their right to be represented by attorneys such as themselves, especially when there is no established attorney-client relationship among the parties.

The availability of legal representation is something that is fully and routinely explained by INS to aliens in custody. The question of representation is governed by well understood and uniform procedures to ensure an alien's right to decide who, if anyone, will represent him. These procedures were implemented because INS cannot be in a position of influencing the aliens as to their representation by allowing

one or another group to contact them. INS must carefully avoid any appearance of such influence.

Technically APABA had no legal status in the matter, and INS is understandably cautious about providing access to persons in its custody. Under the Freedom of Information Act and Service enforcement policy based on that Act, INS personnel generally do not provide information about persons in custody to anyone who cannot demonstrate an official right to or need for the information. This does not mean aliens in the group could not have access to legal representation. After initial processing each person in custody was provided a list of pro bono representatives operating in the Baltimore area. The list and their rights were explained to them in their native language.

At the time, the initial investigation of the incident was at a sensitive stage, with INS investigators and others struggling to unravel a difficult and pressing case. When the APABA request was received, the detained aliens were still being questioned and crucial time-sensitive information on the persons who smuggled and mistreated them was still being uncovered by INS.

Further complicating this particular situation was the fact that INS Baltimore personnel were unfamiliar with APABA at that time. APABA is not listed among the pro bono organizations available to represent aliens in Baltimore, nor are they on the more comprehensive general list found in INS Operations Instructions. Therefore, INS officials were not as certain as they may be today about the actual status and intentions of APABA with regard to the aliens.

Ms. Youngberg was assured by Mr. O'Malley that the Chinese in custody were being fed and well cared for (all were medically examined and treated within 48 hours), and that they would be provided information about the availability of legal and other representation. Although Mr. O'Malley denied APABA access to the aliens, as a special gesture of cooperation he offered to distribute to the detainees a bilingual APABA-produced flyer that could include its telephone number. The flyer, furnished by APABA, was distributed to the Chinese at Wicomico on April 9, the next day after Ms. Youngberg's call.

The Service regrets any misunderstanding regarding the reasons why APABA was denied access to the aliens when Ms. Youngberg called on April 8. That decision certainly was not intended to rebuff the Asian-American community's desire to express humanitarian concern for the detainees. The Service's actions were intended to uphold the agency's law enforcement responsibilities, while protecting the rights, safety and well being of those detained by INS.

**Question.** On April 12, 1994, the Asian Pacific American Bar Association and several pro bono legal organizations again requested a visit with the detainees. This time, Stephen Fickett, INS Acting District Director in Baltimore agreed to a very restricted visit. He required that all statements made by these lawyers must first be reviewed by the INS even if the detainees requested a confidential consultation with an attorney.

Can you explain why the statements made by lawyers to a potential client should be censored in this manner by the INS?

**Answer.** The procedures that were used in this case are essentially the same as those used at the Service's Krome facility in Miami, Florida, in similar situations. Mr. Fickett was instructed by INS Headquarters to follow these procedures after Headquarters officials determined that they represented the most appropriate and practical standards under the circumstances.

INS felt, and still feels, that the guidelines established constituted a very reasonable balance among the concerns of the various interested parties. They were not designed as a means to "censor" APABA. It is important to note that at the time these guidelines were initially communicated to APABA, INS was not told APABA planned to conduct "confidential consultations" with the aliens. Indeed, INS believed, based on information provided by Ms. Youngberg of APABA that the aliens were not being viewed as potential clients but APABA only wanted to check on their welfare and make sure they were aware of their legal rights and available representation.

The original guidelines given to APABA regarding this matter were clear. The aliens would be brought to the APABA representatives in groups of no larger than 10. APABA would be allowed to discuss the detainees' well-being and, in general terms, their legal rights. The proposed agenda and/or statement APABA intended to present to the aliens, as well as a list of any questions they planned to ask them, was to be telefaxed to the Deputy District Director at INS/Baltimore in advance for approval. The presentation would have to be at a time certain, during regular visiting hours, as approved by the warden of the facility. Finally, if at any time the warden felt the meeting was getting out of hand and the security of the facility was threatened, he would be able to terminate the presentation.

The required advance notice of the planned statement and questions was not provided to INS by APABA until the morning of April 12. The notice was reviewed by INS' Deputy General Counsel. He identified certain factual errors within the intended statement, and suggested changes. Regarding the intended list of questions, he determined the questions were mostly unacceptable since they did not relate to the welfare or legal rights of the detainees, but appeared to be a solicitation of clients.

All within the same day, this information was communicated to INS/Baltimore District Office, and that office relayed it to Ms. Youngberg. Later that afternoon, another set of questions was submitted, and a prompt review of that information was conducted by INS. The second submission was found to be more relevant and acceptable. However, before agreement could be reached on that submission, APABA began contacting various congressional offices to allege that INS was being dilatory.

The record is clear that INS acted in good faith at every point in this matter. Reviews were done conscientiously and our access policy established the responsible safeguards our agency is obliged to observe. Furthermore, the extremely fast turnaround time INS provided, once given the information, is ample proof that we did everything reasonably possible to expedite APABA's conference with the aliens.

*Question.* Is this case of censorship an unprecedented restriction?

*Answer.* This was not a case of censorship. INS had legitimate law enforcement interests in the aliens in custody, as well as concerns about their welfare and security. INS acted in a responsible way to safeguard those interests and concerns. However, INS actions were never intended to, nor did they, censor any attorney-client communication. At the time INS asked to review APABA materials, the Service was under the impression, based on APABA representations, that APABA members had no attorney-client relationship, but merely wished to verify the aliens were well treated and make sure they were aware of their legal rights and available representation.

*Question.* The Asian Pacific American Bar Association and other pro bono lawyers were finally permitted a total of two hours to speak to all sixty-four detainees on April 13, 1994. However, the day after the visit, approximately fifty-one of the detainees were moved to other INS facilities. The pro bono attorneys did not have sufficient time to get all the facts necessary to determine whether the detainees have legal claims.

Commissioner Meissner, can you provide this Subcommittee with a list of all detainees and the locations to which many of them have been moved?

*Answer.* The figure cited in the question is incorrect. On April 13, only 36 detained aliens remained in the facility. The others had been removed to New Orleans. A list of the detainees in question is attached to these responses.

*Question.* Can you explain why these detainees were moved so suddenly and without notice?

*Answer.* While the movement may appear sudden, it was routine. The transfer was planned prior to APABA expressing an interest in the cases, and they were aware of this from the beginning. There is generally no one whom INS must notify of its intention to transfer detainees. These detainees were transferred from Wicomico to New Orleans in order to avert overcrowding at the Wicomico facility. In addition, the detention space is less expensive in Louisiana.

This transfer will not disadvantage the transferred detainees. New Orleans has a sizeable Chinese community. As a result, both Chinese interpreters and pro bono counsel are readily available. Moreover, any transferred detainee who engaged legal representation while in Wicomico will have the opportunity to file a motion for a change of venue from the New Orleans district to the Baltimore district once deportation proceedings have been formally commenced.

*Question.* Why weren't these detainees moved to the Winchester, Virginia facility?

*Answer.* Winchester did not have sufficient space at the time. INS contracts bed space for 50 male detainees at Winchester. In New Orleans, where the aliens were transferred, INS contracts 800 bed spaces for male detainees. While it may have been possible to transfer a few detainees to Winchester, it was judged a better course of action to keep members of the group together as much as possible.

*Question.* Why does INS have a policy of renting space from the local county jail and paying \$130 per person per day?

*Answer.* The cost at Wicomico Jail is \$50 per day. INS does not utilize any facility in the Baltimore District that charges \$130 per day.

*Question.* Why doesn't INS have its own facility in the Washington, D.C. area when there are so many detainees that have been held here in INS custody?

*Answer.* INS is constantly assessing sites for detention facilities, including the Washington, D.C. area. The building of INS facilities is demand-driven but not on the basis of apprehensions in a specific location. Location is determined after con-

sulting many factors, only one of which is the apprehension rate in a particular area, and then only when a rate of apprehension has been sustained over a substantial period of time. More important factors are such items as: cost of detention, availability of support services, overall space available, economy and ease of transportation, and availability of people competent to represent detainees.

*Detained Chinese aliens and their locations*

<i>Name</i>	<i>Location</i>
Chen, Zhai Lin .....	New Orleans, LA, parish jail.
Chen, Zhi Xian .....	Do.
Ke, Shun Ying .....	Do.
Yang, Hua Guang .....	Do.
Zhang, Song Di .....	Do.
Yang, Wen Quan .....	Do.
Ke, Shun Jian .....	Do.
Chen, Qi Xiang .....	Do.
Chen, Yu .....	Do.
Dong, Xing Xia .....	Do.
Lu, Tong Dei (juvenile) .....	Philadelphia, PA, jail.
Jian, Jin Chuan .....	Do.
Li, Xuan Shi .....	Do.
Chen, Mei Hua (female) .....	Do.
Bian Qen (female) .....	Do.
Lin, Yin Chin (female) .....	Do.
Chen, Xue Tao .....	Do.
Chen Yan Ji (female) .....	Do.
Dong, Xing Xiao .....	Do.
Tang, Xing Zhu .....	Do.
Li, Chin Chin (female) .....	Do.
Chen, Li Here (female) .....	Do.
Chen, Shun De .....	Do.
Dong, Lian Diau .....	Do.
Qui, Lin Xing .....	Do.
Wang, Quan Tu .....	Do.
Zhang, Xian .....	Do.
Tung, Xiu Bao .....	Do.
Chen, Xue Tun .....	Do.
Chen, Fen Yuan .....	Do.
Chen, Fen Yuan .....	Do.
Wang, Shen Tei .....	Do.
Liu, Xian Yu .....	Do.
Lin, Qin .....	Do.
Lin, Rui Guang .....	Do.
Dong, Tian Bao .....	Do.
Liu, Zhi Yong .....	Do.
Cheng, Chong, Chao .....	Do.
Zhu, Ben Shi .....	Do.
Chen, Shi Wu .....	Do.
Chen, Jian Zhun .....	Do.
Kao, Xi .....	NOL <sup>1</sup> .
Chen, Xue Gon .....	Do.
Wang, Qui Hua .....	Do.
Chen, Sing Ming .....	Do.
Lin, Chang .....	Do.
Chen, Mei Lin (female) .....	Lansing, MI, jail.
Chun Zheng Hui .....	NOL.
Jiang, Xian Ghui .....	Do.
Li, Da Hu .....	Do.
Chen, Quan .....	Do.
Chen, Xian Ping .....	Do.
Dong, Rong .....	Do.
Dong, Li Bing .....	Do.
Zhang, Boa .....	Do.
Wu, Xue Xiang .....	Do.
Weng, Yu Chuang .....	Do.
Chen, Yuen (juvenile) .....	Wicomico, Salisbury, MD.

*Detained Chinese aliens and their locations—Continued*

<i>Name</i>	<i>Location</i>
Chen, Chong Li .....	Do.
Chen, Bo (juvenile) .....	Do.
Chen, Zhai Lin .....	Do.
Chen, Chun Sheng (juvenile) .....	Do.
Chang, Li Li (female) .....	Do.
Chen, Li Hua (female) .....	Do.
Li, Xing .....	Do.
Chen, Zong Jet (juvenile) .....	Do.
Chen, Ma Mon .....	Do.

<sup>1</sup> Juveniles coded NOL are in local juvenile detention centers in New Orleans.

## QUESTIONS SUBMITTED BY SENATOR DENNIS DECONCINI

## IMMIGRATION INITIATIVE

*Question.* Commissioner Meissner, when the Attorney General and yourself announced the INS Immigration Initiative on February 3, 1994, I was very concerned about the impact that the strategy would have on Arizona. I now feel I have even greater cause for concern. As you know, things are getting very tough for the Border Patrol in Arizona. Every month the Tucson Sector breaks another record in the number of apprehensions and the incidents of violence are on the rise.

In addition, there exists a potentially explosive situation with the flood tunnels under the Nogales port-of-entry where as many as 150 Mexican youth live. These tunnels are used for illegal entry into Nogales and the crimes committed by these young people are very serious. In fact, I am told that the most recent inspection of the tunnel was conducted by a SWAT team in full armor. Further, agents in Arizona tell me that they can hardly remember the days when they did not wear their vests to work. Having said all that, I sincerely hope you will consider shifting some agents to the Tucson Sector. It was my understanding that you would be prepared to shift agents to other sectors if deemed necessary. Are you still prepared to shift agents?

*Answer.* It is not likely that a shift of agents to other sectors will be possible during 1994. The Service must bring the border under control in areas of major activity, while monitoring activities carefully in other sectors to be certain that resources are being used effectively. The Service is aware of the situation in Nogales and is following developments there very closely.

*Question.* If so, have you considered shifting any agents to the Tucson Sector?

*Answer.* Although the Service is not considering shifting agents to the Tucson Sector in fiscal year 1994, plans for the Sector include the hiring of support personnel allowing 38 agents currently performing non-agent duties to be redirected back to the line. This is the equivalent of a 13 percent increase in the agent strength in the Tucson Sector.

*Question.* When would you begin to move agents? How long would you expect this shift to take?

*Answer.* The agents who will be redirected within the Tucson Sector will be moved to duties on the line by the end of the fiscal year.

*Question.* And if not, what is the basis for deciding not to shift agents to the Tucson sector?

*Answer.* Available resources have to be committed to locations where the Service continues to have the most serious problems in controlling the border. The San Diego and El Paso Sectors are the sectors with the largest illegal traffic. Gaining control of these two areas is our first priority.

*Question.* I think we all knew that attempting gaining control over El Paso or San Diego would make Arizona the weak link. In fact, recent figures indicate an overall decline in apprehensions. However, Tucson is apprehending more and more people each month. Is your office conducting an ongoing review of how the current INS immigration strategy is working?

*Answer.* The border control strategy is being monitored in all sectors along the border.

*Question.* Have you been monitoring the situation in the Tucson sector?

*Answer.* The operations in the Tucson Sector are being monitored by the Service as a part of the overall effort in monitoring the border control strategy.

*Question.* When do you expect to make decisions on the placement of your new agent positions for fiscal year 1995?

Answer. Decisions on the placement of new agent positions for fiscal year 1995 will be made during the first and second quarters of the fiscal year.

Question. Could you provide to the Committee an explanation of the review you conduct to arrive at the decisions for placement of agents?

Answer. The Service's strategy of prevention through deterrence requires that the agency gain control at the major crossing points in priority order along the Southwest border by concentrating new resources in these areas rather than diluting these resources piecemeal along the entire border. San Diego and El Paso incur the majority of illegal crossings and are, therefore, the first priority. Once INS has disrupted the illegal traffic in these areas, resources will be targeted to those areas receiving the shift in illegal traffic.

#### NOGALES FENCE

Question. As you know, I continue to feel that the community and the Border Patrol in Nogales require fencing to protect them from the increasing violence along the border. Last year the Conferees instructed INS to absorb the cost of alternative fencing for Nogales, Arizona, and other border communities within the resources provided. Do you believe that the Border Patrol and community in Nogales, Arizona require fencing for their own safety?

Answer. The Border Patrol and the community in Nogales would both benefit from the installation of fencing. It would contribute to the Service's on-going efforts to control the border and contribute to public safety in general.

Question. Why hasn't INS moved forward on constructing alternative fencing in Nogales? Is the cost prohibitive?

Answer. Agreement has been reached regarding the construction of landing mat fencing outside downtown Nogales. The City strongly supports the construction of alternate, aesthetically-pleasing fencing in the downtown area. The one proposal we have seen estimates the cost of the fence to be approximately \$370,000 for less than one-mile of fencing. In contrast, landing mat fencing in Arizona costs the Service approximately \$37,000 per mile. Funding is available for landing mat fencing, but has not been identified for alternate fencing. In the meantime, the Border Patrol will patch holes in the existing fence with landing mat materials.

Question. It is my understanding that the Border Patrol in Tucson signed off on the design presented by the community. Is that your understanding? If not, what is the difficulty with the design?

Answer. The Border Patrol, Tucson Sector, has not signed off on the design of the alternate fencing for downtown Nogales. The Patrol is aware of the proposed design for the fence, its aesthetically-pleasing features, and its estimated cost. However, funding for an alternate fence has not been identified, and an assessment of the proposed fence's law enforcement functionality needs to be undertaken. The Patrol understands the local officials' concerns regarding the design of the fence and has advised that they examine fencing used in other Sectors for alternatives. In Naco, for example, the Border Patrol is providing paint and the city will hold an art contest. Ultimately, murals will be painted on the fence.

Question. If I was able to secure funding or partial funding for fencing is there any support which INS could contribute?

Answer. The Service would arrange to have the Border Patrol provide security assistance while the fence is being constructed. If they are appropriate to the design and available, the Patrol could provide landing mat materials and quickly assess the law enforcement functionality of any design proposal. Finally, the Border Patrol can help coordinate at the local level, including facilitating contact with the Mexican Government.

Question. Would it be possible to get the National Guard deployed as they are for the construction for the landing mat fence?

Answer. The deployment of National Guard personnel for the construction of fencing other than the landing mat type would have to be discussed with and approved by appropriate authorities in the Arizona National Guard. National Guard participation in the construction of alternate fencing would probably depend on whether Guard personnel possess the skills required for the project and the length of time required to complete the work. Furthermore, JTF-6 coordinates the deployment of Department of Defense personnel for this type of exercise.



**OFFICE OF JUSTICE PROGRAMS**

**STATEMENT OF KATHLEEN KENNEDY TOWNSEND, DEPUTY ASSISTANT ATTORNEY GENERAL, OFFICE OF JUSTICE PROGRAMS**

**ACCOMPANIED BY:**

**JACK A. NADOL, ACTING DIRECTOR, BUREAU OF JUSTICE ASSISTANCE**

**LAWRENCE GREENFELD, ACTING DIRECTOR, BUREAU OF JUSTICE STATISTICS**

**CAROL A. PETRIE, ACTING DIRECTOR, NATIONAL INSTITUTE OF JUSTICE**

**JOHN J. WILSON, ACTING ADMINISTRATOR, OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION**

**CAROLYN A. HIGHTOWER, ACTING DIRECTOR, OFFICE FOR VICTIMS OF CRIME**

**PHYLLIS M. BLACK, DIRECTOR, BUDGET STAFF, OFFICE OF JUSTICE PROGRAMS**

**STEPHEN R. COLGATE, ASSISTANT ATTORNEY GENERAL FOR ADMINISTRATION**

**MICHAEL J. ROPER, DEPUTY ASSISTANT ATTORNEY GENERAL CONTROLLER**

**ADRIAN A. CURTIS, DIRECTOR, BUDGET STAFF**

**BUDGET REQUEST**

Senator HOLLINGS. The subcommittee will now hear from the Office of Justice Programs. As of Friday, April 22, the request for justice assistance in fiscal 1995 totaled \$714 million, an increase of \$35 million above the amount appropriated last year.

The President's request also includes an additional \$1.720 billion in crime control funds for programs that will be administered by the Office of Justice Programs. These programs will include \$1.720 billion for grants to State and local government to put more than 50,000 uniformed police officers on the streets in 1995, and \$100 million for grants to States to improve their criminal records identification systems.

Appearing is Ms. Kathleen Kennedy Townsend, the Deputy Assistant Attorney General for the Office of Justice Programs. We welcome you here this morning, and we would be delighted to hear from you. Your statement in its entirety will be included in the record, and you can deliver it or highlight it whichever you wish.

**OPENING STATEMENT OF KATHLEEN KENNEDY TOWNSEND**

Ms. TOWNSEND. Thank you, Senator. I will submit it for the record, but I would like to say a few words. Before I do that, I brought with me the bureau heads from the Office of Justice Programs, so I would like to introduce them to you. This is Jack Nadol, Acting Director of the Bureau of Justice Assistance, which as you know, is the part of the Justice Department that gives grants to States for community policing and for corrections.

Senator HOLLINGS. He looks like a sugar daddy. [Laughter.]

Ms. TOWNSEND. That is the way we think of him at the office. [Laughter.]

Jack, I really need help. [Laughter.]

And there is John Wilson, who is Acting Administrator for the Office of Juvenile Justice and Delinquency Prevention, which has started a great program to help build families. To have strong delinquency prevention, we have got to build families and build strong community organizations as well as look at graduated sanctions so we make sure that we really get what is best for that child, and at the same time punish them appropriately.

We have Carolyn Hightower right here, who is the Acting Director for the Office for Victims of Crime who did a great job at the White House yesterday on addressing victims problems and, throughout the States, has been very helpful in giving some comfort to victims. As you know, we have so many victims today.

And Carol Petrie, who is Acting Director of the National Institute of Justice, which is also part of the Justice Department. She does the studies figuring out what works, and has done a lot on community policing, which I think means that we have a lot to build on.

And Larry Greenfeld, who is from the Bureau of Justice Statistics, who figures out how many crimes have been committed and what we should do about them.

#### 1995 BUDGET REQUEST

You have got our budget figures correct. We are going to be asking this year for OJP \$714,693,000; \$364 million will be for the "Justice assistance" account and \$350 million will be for the State Criminal Alien Assistance Program (SCA), which is the program that we discussed recently where we will help incarcerate the illegal aliens. In addition, we are asking for \$29 million for the public safety officer benefits programs. As you know, this is also a part of what we are asking that I am going to talk about today. The biggest part of the President's budget is for the crime bill, which will be an enormous increase to help the States; \$1.7 billion. One of the things that I wanted to touch on before I answer any questions you have is the Edward Byrne Formula Grant Program, because there has been a lot of controversy as you know, Senator.

#### TERMINATION OF EDWARD BYRNE FORMULA GRANT PROGRAM

Senator HOLLINGS. There has been a lot of agreement. We just have not had the money put back in. We asked the Attorney General and she said before this committee and on her recent visit to South Carolina to view the violence task force that she intended to fully fund the Byrne grant, and then we came back and just got one-third of the restoration. You are talking about \$1.7 billion over here, but she has not got it right with the program.

The gentleman here administers the Byrne program and knows that it works. It has tremendous flexibility, and supports a multiplicity of different Justice programs and everything else, in addition to the cop on the beat or the community police program. In that light, while you say you have got all these people, everybody agrees on what works, and that to terminate it would be a mistake, so then why only reimburse one-third of it instead of the full \$358

million—I understand you are restoring only \$125 million. That is the controversy. Can you tell me about that, please?

Ms. TOWNSEND. I would love to. The idea was, when the President and the Attorney General and the administration decided to eliminate the Byrne formula grants in the first place, was that the real need on the streets is community police officers, people who will walk the beat and talk to the community and solve those problems. That would be really the best way to fight crime.

That is, when you go out in the field and talk to people, what do they say to you? They say, we need community police officers. We need more cops on the beats. We want a police officer nearby, visible, so we see them, and so that is what people were telling us in the administration constantly in community after community in the United States.

In a budget crunch, as you well know, the question is sometimes you have to make tough decisions, and it is not easy, it is not fun, it is not pleasant, but sometimes you just make those tough decisions, and the decision that we made, the administration made, is that we are going to put a lot of police on the beat.

We are going to put the police out there. We are going to give lots of money to the communities, and, therefore, we are going to have to look at other places that could be cut, not because it is not a good program, but because there is just not all the money in the world.

#### MULTIJURISDICTIONAL TASK FORCES

Now, after that original decision was made, we did hear from lots of, as you know, police organizations across the United States, and they said it was very important to get back the multijurisdictional task forces, and we knew how much that was a part of the Byrne grants, about \$125 million, and it was restored. It is not perfect. I mean, nobody pretends it is perfect, but it is always the question of how you make the best balance when you have a limited amount of money.

[The statement follows:]

#### STATEMENT OF KATHLEEN KENNEDY TOWNSEND

Mr. Chairman and Members of the Subcommittee: I am pleased to have this opportunity to discuss the Administration's plans to provide assistance to State and local governments to help them control violent and drug-related crime and to support the 1995 budget request for the Office of Justice Programs. This Administration is committed to reducing violence and the fear of violence. We must take back our country from the violent criminals who terrorize our citizens. It is our responsibility to create a sense of order and peace so that our citizens can be freed from fear and so that we can reclaim our public spaces. We recognize, as do you, that a critical component of crime control is working in close partnership with State and local government.

#### OFFICE OF JUSTICE PROGRAMS

The Office of Justice Programs is the primary Federal agency designated to help State and local governments control crime and violence. The OJP and its bureaus identify emerging criminal justice issues, develop new ideas and test promising approaches to address these issues; evaluate results; and disseminate these findings and other information to the Nation. OJP also provides dollars to States and locals to support their initiatives, assists victims of crime, and collects statistical data about crime and victimization. A high priority of OJP is to empower communities to deal successfully with crime and violence by improving intergovernmental rela-

tionships, which are critical to the success of the Administration's Empowerment/Enterprise Zone Program.

We are requesting \$364,693,000 and 365 positions for the Justice Assistance account. This represents a decrease of \$314,912,000 and an increase of seventeen positions over 1994. This year our appropriation is \$679,605,000 and 348 positions. The amount requested for 1995 includes an increase of \$4,027,000 for adjustments to base and program decreases totaling \$318,939,000. Let me briefly discuss the Administration's budget request for each of the five bureaus.

#### BUREAU OF JUSTICE ASSISTANCE

In the original budget request that was submitted to you, we asked for \$100,000,000 for the Edward Byrne Grant program, which is a decrease of \$374,500,000 below the 1994 funding level. The proposal eliminated funding for the Formula grant program and increased the Discretionary program from \$50,000,000 to \$100,000,000. Elimination of the Byrne Formula grant program was requested in order to support expansion of the Juvenile Justice program and to provide resources required by the Department to maintain its core Federal responsibilities, primarily prison operations. In addition, the Administration believed that the new State and local assistance programs in the pending Crime Bill will more than offset the loss of funds under the Byrne Formula grant program.

However, in the last few weeks the Administration has recognized concerns about continuation of the Multijurisdictional Task Forces funded through the Byrne formula grants and, although the Administration's budget request will not be amended, we have identified \$125 million in the Administration's 1995 budget request that can be used to fund this Task Force activity. The proposed offsets to the pending request include a \$50 million reduction in the public safety and community policing grants for 1995; \$50 million from the proposed increase for Byrne discretionary grants; and \$25 million from the proposed increase in funding for the Juvenile Justice and Delinquency Prevention Program. The Administration is also supporting an amendment to the crime bill to make the Byrne grant program eligible for funding from the Crime Control Fund. This is necessary to permit use of the \$50 million offset from the policing grants for Byrne grant funding.

A reduction of \$14,491,000 is requested for the Regional Information Sharing System (RISS) program. This proposal, which eliminates funding for the program, will provide the Department some of the funding necessary to fund core Federal missions, such as prison operations. Further, the Administration believes that the many State and local assistance provisions offered by the pending Crime Bill will more than offset the loss of RISS funding.

#### OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION

In the original budget request, we asked for \$172,200,000 for Juvenile Justice programs, which was an increase of \$69,250,000 over the 1994 appropriation. (This amount does not reflect the impact of the proposal mentioned earlier regarding funding for the Multijurisdictional Task Forces under the Byrne Program, because the Administration's budget request has not been amended. That proposal would reduce the requested increase by \$25 million.)

However, that would still leave us with a requested increase of \$44,250,000. The requested increased will allow the Office of Juvenile Justice and Delinquency Prevention to implement a comprehensive strategy that will focus resources on programs designed to prevent delinquency and identify and intervene effectively with serious, violent, and chronic juvenile offenders. OJJDP's comprehensive strategy revolves around three priority areas: delinquency prevention, community-based alternatives, and improvement of the juvenile justice system. Under prevention, we will strengthen the family, support core community institutions in their work with youth, emphasize the prevention of delinquency and gang-related activity, and control violent youth crime. Under community-based alternatives we will promote the maintenance of ties with family, school, and community. To improve the juvenile justice system we will promote law-abiding behavior and ensure the most effective allocation of system resources.

The request provides an increase in funds for existing core programs such as the State formula grants, juvenile justice discretionary grant projects, and gang-related programs.

The budget also provides funding for two new programs created by the 1992 Juvenile Justice and Delinquency Prevention Act amendments—Incentive Grants for Local Delinquency Prevention and the State Challenge Activities program.

The Missing Children program and Victims of Child Abuse programs, which are also administered by the Office of Juvenile Justice and Delinquency Prevention, will be continued at the 1994 resource level.

#### BUREAU OF JUSTICE STATISTICS AND NATIONAL INSTITUTE OF JUSTICE

The budget request will maintain the research and statistical programs of the National Institute of Justice and the Bureau of Justice Statistics at the base funding level.

#### MANAGEMENT AND ADMINISTRATION

Management and Administration is increased by \$802,000, seventeen positions, and six workyears. This amount includes an increase of \$1,250,000, twenty-two positions, and eleven workyears for the Office of Juvenile Justice and Delinquency Prevention in conjunction with the proposed Juvenile Justice program enhancement. The increase for Juvenile Justice is offset by a decrease of \$448,000, which includes a reduction of \$250,000, five positions and five workyears in response to the President's goal of reducing Federal civilian employment and a decrease of \$198,000 for the absorption of the 1995 annualization cost of the 1994 locality pay raise.

#### PUBLIC SAFETY OFFICERS' BENEFITS

A total of \$29,717,000 is requested for the Public Safety Officers' Benefits (PSOB) program. While the total amount requested represents the base funding level, we are proposing a shift of \$2,072,000 from the Death Benefits program to the Disability Benefits program. The PSOB Disability Program, which is a discretionary account, has not been directly funded for the past two years and has been dependent on fund transfers from other accounts in the Department. The funding level requested for the Death Benefits program, which is a mandatory account, is expected to be sufficient to pay all eligible claims in 1995.

#### OFFICE FOR VICTIMS OF CRIME—CRIME VICTIMS FUND

The Crime Victims Fund is financed by Federal criminal fines, bond forfeitures, and penalty assessments. For fiscal year 1995 it is budgeted at \$160,218,000. Resources in the Fund are used to support State compensation and assistance programs that improve services provided to innocent crime victims in America. The program level for 1995 is based on our estimate of collections in 1994.

#### BUDGET AMENDMENT

In closing, Mr. Chairman, on last Friday, April 22, the President sent to Congress a fiscal year 1995 budget amendment for the Office of Justice Programs. This amendment will provide a new \$350 million State Criminal Alien Assistance Program, which will help States pay for the costs of incarcerating illegal aliens convicted of a felony. This program is a key part of the Administration's overall strategy for addressing the problem of illegal immigration.

This concludes my statement, Mr. Chairman. I would be pleased to answer any questions you or other members of the Subcommittee may have.

Senator HOLLINGS. Senator Domenici.

Senator DOMENICI. Everything we are talking about, when we go visit our localities in terms of where help is needed, it is not all that we want. Policemen, I mean, with all due respect, prevention, apprehension, prosecution, adjudication, treatment, that is where it goes in New Mexico. That is where the Byrne funds go, just like it does in your State and other States.

Senator HOLLINGS. Well, in South Carolina we have got education in schools, efforts to combat street sales of drugs, criminal justice records improvement, drug-alcohol treatment in prisons, enhancement of forensic labs, funding of public defenders, improvement of sex abuse investigations, alternatives to detention, as well as community policing.

#### DRUG ABUSE RESISTANCE EDUCATION [DARE] PROGRAM

Senator DOMENICI. Right, and in addition, as I understand it, with their programs funded by this, and frankly, when the President first sent it off, sent it over, DARE would have been eliminated in my State.

Senator HOLLINGS. Let me make that record. Senator Rudman and I went all over the State of South Carolina—this was 2 or 3 years ago, and just as Ms. Townsend now says there is not all the money in the world, we told the witnesses that there was not much money but if we could add one person in each of our 46 counties—we had the Solicitor, the prosecutor, we had the judge, we had the corrections folks, we had the superintendent of education, right on down the line, and we asked what would they choose as the one per county. They all said a DARE officer. Even the prison fellow agreed on that. Everyone agreed on that.

#### AVAILABILITY OF FEDERAL RESOURCES

Senator DOMENICI. Let me just make my thoughts, if you do not mind. Frankly, I said a while ago with reference to the \$350 million for the program to help the States incarcerate illegals, that the process of funding these was phony, and frankly, I think the process for funding the policeman on the beat is phony, too, because it is absolutely incredible that you would cut the Byrne program as much as it was cut in the President's budget to fund and say to Congress, but you can fund \$1.7 billion for new community-based policemen. We guarantee them for 3 years, and after that we are not sure what is going to happen.

I mean, that is phony, because that never was going to happen, and we are meeting on that all over the jurisdiction of this committee. I mean, we have got things cut at the same time we know they are not going to be cut, and we are asked for increases based on those cuts, and now we have got fees in this committee that are being treated like general taxes.

They are not fees to run an agency, they are fees to put in the general Treasury to make up for what is needed for the programs, and there is nothing to be done about it, and it is not your fault. Obviously, you are trying your best. But you know, the wording you use here today, that everybody running around in a local area seeking input is being told we want more policemen and we want the Federal Government to pay for it, that just is not true. The new hue and cry is, why do you not help the courts? Why do you not help the district attorneys? Why do you not help with some of these prevention programs?

So I appreciate your sincerity and support for the President.

Ms. TOWNSEND. Thank you, Senator.

Senator DOMENICI. It does not ring too well.

#### DARE OFFICERS AND COMMUNITY POLICING

Ms. TOWNSEND. Can I make just one point about the DARE officers, that certainly the DARE officer is a community police officer. If the community believes it is important to have a DARE officer, that community policeman will be a DARE officer.

Senator DOMENICI. Well, that just diminishes the police presence, but DARE officers do a tough job.

Ms. TOWNSEND. But DARE officers are police officers.

Senator DOMENICI. But now we are saying we invent a new program for you but we are going to really ask that they do some of the old program's work, but that is not going to fly. We are going to fund DARE.

Thanks, Mr. Chairman.

#### COMMUNITY POLICING

Senator HOLLINGS. And you have got 2,500 applications for community policing, as the gentleman knows, and you are only able to, what, grant 200?

Mr. NADOL. 2,700, and we will fund about 220.

Senator HOLLINGS. That is like drinking water out of a fire hydrant, and I can tell you here and now, if there is a fund available, of course, at the local level and the State level, there is no chance in the world that the Federal Government will really provide police officers on the beat. I like the initiative because it is real, but it is almost impossible at this particular level, so if we can get into areas like Los Angeles and those other areas and everything else of that kind and help, that is fine business. I think we should. But as far as providing policemen on the beat, they can take the program that we already have and embellish it. Why not put the \$1.7 billion right through the Byrne formula grants? It is working. What do you think of that? If we did that, would you be disappointed?

Ms. TOWNSEND. I would be disappointed.

Senator HOLLINGS. Why?

Ms. TOWNSEND. I would be disappointed because I think that the community policing proposal has the best chance of doing two things, getting people on the street, and changing police departments.

I think the biggest problem that we face with crime, or one of the big problems, is giving communities a sense that they themselves have to create order in the communities, that there is nobody else that is going to do it for them, and that we have gotten away, I think, over the last number of years from the idea that, you know, people are looking for answers from the Government to solve this answer.

The Government, no government is going to solve the problem of crime and violence if the community themselves does not take it upon themselves to do that. They have to learn—and I can use the cliché of today—they have to be empowered, but that is really the challenge.

The question is then, how do you best do it, and I think the answer is through community policing, which is to get police officers to work in the community and to start with people, to say to them, to work with them, to identify the problems and understand that this is their responsibility, this is not just the responsibility of somebody else.

And the idea that—and that is really—I mean, if you ask, that is really why I think the community policing is most important, because it brings—really brings democracy back into the communities and to understand that crime fighting is not something that will

be done by somebody else. You cannot just pay money and get it done. You have to do it.

#### FEDERAL ROLE IN PUTTING COPS ON THE STREET

Senator HOLLINGS. Well, I appreciate that, but that is like identifying the need for the Redskins is a quarterback, and we all agree on the quarterback, but you are going to send me out there to do it, which is totally inadequate.

Now, he says 2,700 applications and only 200 can be provided, so we are agreeing on the problem, but we are not agreeing that that is going to solve it. Your particular approach is going to nibble at it. I mean, why do you think we made it a crime for me to recommend you as a postmaster? You know it is a felony if I recommended you as a postmistress? The reason was because we get one person happy and then 100 political enemies. I voted against it, incidentally, because back in 1977 I was willing to go ahead and get the one friend I needed. [Laughter.]

But we actually did away with the Post Office Department. The first department of Government was the U.S. Postal Service, and the Postmaster General was the first Cabinet member, but we got rid of it. Why? Because we just could not take the time interviewing people to be the postmaster of Columbia, then seeing them all and hearing all their friends and everything and take one, and then we made 100 enemies, so we not only said you could not appoint them, but we made it a felony to even recommend them. So, if I recommend it, it is a crime. It is a felony for me to recommend you as postmaster.

And then in a similar vein we have got the same situation. We all agree there is a problem, and we agree absolutely we need policemen on the beat. I mean, that has worked extremely well.

We have got a fellow who has taken on national recognition, Ruben Greenberg of Charleston, and he has got his officers running around there in Nikes or Reeboks, or whatever, and even—I saw him on roller blades the other day, and he is going after the criminals yet, everybody knows the policeman is their friend, and they say, you know, at 11:15 on such-and-such a corner, you can get him, and they help, and it is “thanks a lot,” and they help, and everybody joins in. So you are dead right on the approach.

But at the Federal level, with our particular responsibility, they are not going to do anything about drug treatment and that is why we have all of these lists of things in here that the Federal Government tries to urge people through education and all these other things, because the local people will never get to it.

That is why we do our best to provide that kind of leadership and recognition of those particular roles of Government, but not just take the ultimate, namely, the community policing, and say, by God, here in Washington, we are going to fund this thing. We are not. That is the whole thing.

#### JUVENILE JUSTICE FUNDING

Let me ask you about juvenile justice. I see that you are requesting a \$69 million or 65 percent increase in juvenile justice and delinquency prevention program funding. This is on top of a 39-percent increase we provided the JJ programs just last year. Can you

tell us what initiatives you have undertaken for additional resources from last year's bill, and then what you are going to do with the additional money?

Ms. TOWNSEND. Yes; but because we are going to put money back into the Byrne grant—we will take \$25 million out of the \$69 million increase and put it back into the Byrne grant.

Senator HOLLINGS. We will restore it back.

Ms. TOWNSEND. You are talking about the Byrne formula grant.

Senator HOLLINGS. Yes.

#### NEW JUVENILE JUSTICE PROGRAMS IN 1994

Ms. TOWNSEND. Thank you, Senator. If the question is what we have been doing this year with the juvenile justice funds, we are going to do a mentoring program. We are developing guidelines for a \$4 million mentoring program. That requires working with the schools. We are also implementing the title V \$13 million, which I think we are most enthusiastic about in the Justice Department. This is a prevention program which provides funds to every State to do local delinquency prevention plans to identify the risk factors for delinquency and to figure out how the State can resolve them by implementing programs and services.

#### JUVENILE JUSTICE—PREVENTION PROGRAM AND STATE CHALLENGE PROGRAM

With \$12 million the additional \$44 million we are now asking for, we will increase to \$25 million what we spend on prevention. In addition, we will have a State challenge incentive program that tries to get States to try different ideas to see what alternatives they can use for kids in school and whether they can have better counsel for young people; whether they can have better mental health and education services; whether they should do more things like we have up in Massachusetts, something called the Robert Kennedy Action Corps, which is small and secure facilities rather than large facilities.

So the idea behind this is that lots of States—you know, they get their money, and they spend it, and they have not tried anything new. And so the idea of the State challenge grant is to try to push them into new ideas and give them incentives.

#### ELIMINATION OF JUVENILE JUSTICE MENTORING PROGRAM

Senator HOLLINGS. Now, we are back to the burnt branch rationale. How about the \$4 million for mentoring? As I understand it, you eliminated that from your 1995 request.

Ms. TOWNSEND. That is right, because the way the mentoring program was constructed in the 1992 amendments, it requires that the mentoring program must work through the school system, and our view is that that may be a way, but that is not necessarily the best way, and maybe a local community might decide that mentoring works better in an after school activity or as part of a church program or as part of something involved with the courts. And, after all, we are a juvenile justice program, and, therefore, it might be better to concentrate our efforts on kids that are in trouble rather than just a broad school-based program.

## JUVENILE JUSTICE—YOUTH GANG PROGRAMS

Senator HOLLINGS. How about the \$7 million requested for the youth gangs? You have got a comprehensive program already. Does this build on what you started last year?

Ms. TOWNSEND. It does. We have done a very wide search in the field, looking at the studies that have been done and the best types of programs. And it is very exciting because apparently there is not any place in the country that has a really comprehensive program to address gangs, and the idea is that we are now going to try to fund that—\$200,000 to five sites—to see what will work. When we get the additional money, we can build on the programs that we have started and expand to other jurisdictions.

Because, as you know, there is a lot of concern about gangs which really comes out of, unfortunately, people not having strong families, and kids need a place to feel comfortable. And so we are trying to work on that. And it is interesting because right now we have a BJA gang program that looks at suppression, and the HHS program, which is primarily prevention and treatment. And what we are going to do in the JJ is to combine the two so that we have a really comprehensive program.

## JUVENILE JUSTICE STATE CHALLENGE PROGRAM

Senator HOLLINGS. And you were talking a little while ago about challenging the States. Requesting \$35 million, as I understand, to provide that the States find themselves spending all of their juvenile justice formula funds on meeting mandates. What about this \$35 million program?

Ms. TOWNSEND. Well, it is no longer \$35 million. We cut \$20 million from it, so it is now \$15 million. And that is the challenge grant program. It has 10 areas—some that we have talked about. It would be for education, mental and basic health services, and it will be for alternatives for schools so the kids do not get kicked out of schools. So the idea is that every State, if they do 1 of those 10 identified areas, they would get an increase in their block grant money—up to 10 percent for each challenge activity they undertake.

## CRIME BILL FUNDING FOR BOOT CAMPS

Senator HOLLINGS. How about the \$3 billion authorized by the Senate crime bill, and it is in the House bill too, for funding boot camps to house violent offenders? Some folks say the boot camps are the answer to juvenile delinquency. What is your view?

Ms. TOWNSEND. Well, I think there are a lot of answers to juvenile delinquency. I think boot camps—as I said earlier, you want to look at graduated sanctions and you want to see which ones are the most appropriate. What we have seen in our preliminary studies of boot camps is that with a good postincarceration release program and monitoring program, some work better.

Because what you cannot do is just have a kid in the boot camp for 3 months and then send them back into the same community. You have got to make sure that they are monitored and that somebody is watching what they are doing and whether they are staying off drugs and whether they are in school getting their GED, or

finding a job, whatever they are supposed to be doing, so that you cannot just let them out into the community. If you have a strong postincarceration supervision program, then they tend to be more successful.

#### UNALLOCATED \$303 MILLION IN CRIME CONTROL FUND REQUEST

Senator HOLLINGS. Do you support the allocation of any of the unspecified requests for \$303 million in crime funds, do you support any of that to be reallocated for boot camps?

Ms. TOWNSEND. Yes.

Senator HOLLINGS. How much?

Ms. TOWNSEND. We are looking at trying to figure out the best balance between—as you know, you have the police corps, the drug courts program, the boot camp program, so we are in the discussion stages of where we should put the most money.

Senator HOLLINGS. We do have a few other questions for the record, and several of the Senators had to be at other hearings.

#### CLOSING REMARKS—SENATOR HOLLINGS

It is a delight to be arguing again with a Kennedy. [Laughter.] Your father always won all the arguments. I am not doing any better with you. [Laughter.]

But I can see you have done your homework. That is wonderful, and if there is any way we can help you. I will go over this and staff will go over this with you, and we will work it out, OK?

Ms. TOWNSEND. Thank you very much. Do you want to say hello to my mother?

#### ADDITIONAL COMMITTEE QUESTIONS

Senator HOLLINGS. She is the best. We welcome you, Ethel. I do not go to work anymore, that I do not see Ethel looking up and Robert's on top of that car in Berlin. That is the best picture of the two of them and I have got it right there in my office.

[The following questions were not asked at the hearing, but were submitted to the office for response subsequent to the hearing:]

#### QUESTIONS SUBMITTED BY SENATOR ERNEST F. HOLLINGS

##### STATE CRIMINAL ALIEN ASSISTANCE

*Question.* On Friday, the Administration transmitted a budget amendment to Congress which adds another \$350 million to the fiscal year 1995 budget request for the Office of Justice Programs.

Specifically, the amendment seeks \$350 million to reimburse seven States for their costs of housing criminal aliens convicted of felonies in those States.

In your opening statement, you say that the Administration will not be submitting a budget amendment to restore the Byrne Formula Grant cut although it supports partial restoration of the program.

Since the Administration has submitted a \$350 million amendment for grants to seven states impacted by the costs of housing criminal aliens but will not do so for Byrne Grants to 50 States, is that an indication that this Administration places a greater priority on State criminal alien assistance rather than Byrne Formula Grant funding?

*Answer.* No, it is not. On May 16, the Administration notified Congress of the budget amendment to restore \$125 million for the Byrne Formula Grant Program. The reason for the different timing for notification of the two amendments was due to the fact that the immigration initiative had been under consideration by the Administration since January, when consultations were held with States over issues regarding the costs imposed on the States by illegal aliens. This particular program

had been authorized for several years but was never funded. The issue regarding the amendment of the original budget request for the Byrne Formula Grant Program arose at a later date.

#### POLICE HIRING SUPPLEMENTAL

*Question.* In a fiscal year 1993 supplemental, this committee provided \$150 million for a Police Hiring Supplement. Some have referred to this initiative as a "down payment" on the President's goal of hiring 100,000 additional police on the streets throughout America.

I understand the Department has allocated approximately \$75 million—or about half of the amount appropriated.

When will the final awards for the Police Hiring Supplement be announced?

Answer. The final round of awards was announced on May 12, 1994.

*Question.* Concerns have been raised that certain States have been favored in the award of these grants to date. Can you comment on the criteria used in approving the grant applications?

Answer. In order to effectively manage this program of this complexity and magnitude, the Attorney General established the Police Hiring Supplement Task Force, comprised of career professional staff to direct and manage the program. Staff were drawn from the Criminal Division and the Office of Policy Development in the Department, and the Office of Justice Programs (OJP).

The Task Force, with guidance from senior Department officials, developed a two phased process for reviewing applications and making award selections. Phase One consisted of the application review and scoring process. Each application was reviewed and scored by a team of professional career OJP staff. Phase Two consisted of the Task Force's funding decision process. In general, the Task Force considered high scored applications identified through Phase One and made award recommendations. As the Task Force considered high scored applications, it developed additional procedures and quality control measures to further refine the processes for scoring and for making funding decisions. Other refinements were added to the funding decision process in the final round to balance awards so that they more fully reflected variations in population, geography, and level of need.

The reviewers scored each application according to the following Selection Criteria:

*Public Safety Need (40 percent).*—Applicants must demonstrate a clear need for additional sworn law enforcement officers based on public safety and/or economic factors. Important factors include: the crime index, unemployment, ratio of officers to residents, and significant trends or events affecting public safety or the local economy.

*Community Policing Strategy (30 percent).*—Applicants must specify how they will address their crime and related problems through community policing.

*Implementation Plan (10 percent).*—Applicants must specify how program funds will be used to deploy additional sworn police for community policing activities.

*Continuation and Retention Plan (10 percent).*—Applicants must describe how they intend to continue the project and retain the additional officers after the grant concludes.

*Additional Resource Commitments (10 percent).*—Applicants must describe non-program resources that will be provided from other organizations in support of the project.

*Question.* Has the Department learned anything from the exercise of allocating the Police Hiring Supplement that they would do differently in allocating the larger community policing initiative proposed in the President's budget?

Answer. The Department is currently in the process of reviewing and assessing the efficiency and effectiveness of its distribution of funds under the Police Hiring Supplement Program. We are examining ways to automate the process, use peer reviewers, and simplify the grant application. Given the even larger community policing initiative proposed in the President's budget, we feel that it is extremely important that we carefully reflect on our experience in administering the Police Hiring Supplement Program to properly position the Department to most effectively administer the new initiative.

*Question.* I understand the Department received well over 2,500 grant applications from communities wanting to participate in the Police Hiring Supplement. All of these communities put a lot of time and effort into writing these grant applications—yet only 200 will be approved and funded.

Will the Department take this into consideration and give priority to the communities that were not selected for funding in the Police Hiring Supplemental when allocating any community policing funds provided in fiscal year 1995?

**Answer.** There were 250 funded applications from a total pool of 2,760. There were many excellent applications among those not funded. Thus, it is certainly possible that priority consideration could be given to those communities not selected under the Policing Hiring Supplement Program. However, it will depend in large measure on the final version of the Crime Bill. Currently, the Application Content and Application Process language as well as the funding provisions of the Crime Bill differ significantly from the Policy Hiring Supplement Program, and those differences would cause insurmountable administrative difficulties in this approach. In addition, we must also weigh the fairness of not providing an opportunity to those who did not apply to the Police Hiring Supplement Program.

#### COMPREHENSIVE COMMUNITIES PROGRAM

**Question.** I understand the Attorney General reviewed the Bureau of Justice Assistance's proposed spending plan for fiscal year 1994 discretionary grants and recommended pooling about \$17 million in various program resources to initiate a comprehensive crime control and community mobilization program in six jurisdictions.

Apparently 12 cities have been selected to compete for 6 grants of \$2 million to \$3 million each.

Could you please briefly describe this new initiative?

**Answer.** There are actually sixteen jurisdictions that have been invited to compete for six implementation grants. In addition to the twelve referenced sites, jurisdictions participating in the Attorney General's Putting America's Communities Together (PACT) initiative have also been invited to participate.

Under the Comprehensive Communities Program (CCP), communities faced with high rates of drug and violent crime will develop a comprehensive strategy for crime, drug control, and crime prevention that requires the police and other agencies to work in partnership with the community. There are two primary underlying principles to this initiative: (1) that communities must take a leadership role in developing partnerships to combat crime and violence and (2) that State and local jurisdictions must establish truly coordinated and multi-disciplinary approaches to address crime and violence related problems, as well as the conditions that foster them.

The CCP will be implemented in two phases. Under Phase 1, the invited jurisdictions will be provided resources and technical assistance and training in the development of comprehensive strategies, and will in fact develop their strategy. Phase 2 will comprise the demonstration phase, in which six of the jurisdictions will be provided grants, based on a competitive selection of the most effective strategies, to implement their strategies.

**Question.** As I mentioned, 12 cities are competing for 6 grants using fiscal year 1994 monies. Does OJP expect to provide grants to the remaining 6 that are not selected using fiscal year 1995 monies?

**Answer.** We currently anticipate that the CCP will be continued, and expanded, in 1995. We have not yet finally decided, however, whether 1995 funds will be used to fund unsuccessful 1994 applicants or to expand the number of invited jurisdictions and repeat the program.

**Question.** When will the six fiscal year 1994 grants be awarded?

**Answer.** All invited jurisdictions will be required to submit implementation grant applications based on their strategies by August 15, 1994. Applicants selected will be funded by September 30, 1994.

**Question.** Since the remaining six would already have been reviewed, could awards be made to those localities early in fiscal year 1995—say October?

**Answer.** If it is determined that our 1995 funding strategy will be based on simply funding unsuccessful applicants, it is likely that we could provide that funding early in 1995. However, it would depend on the length of time necessary for unsuccessful 1994 applicants to remedy deficiencies in their strategies.

#### WEED AND SEED PROGRAM

**Question.** In fiscal year 1992, this committee authorized and funded the Weed and Seed Program. The program essentially permits the federal government to effectively mobilize its resources—be they law enforcement, social service, or community development—to combat the drugs, violence, and other criminal activity plaguing certain communities.

That sounds an awful lot like the philosophy behind the Attorney General's Comprehensive Communities Program funded from Bureau of Justice Assistance discretionary monies.

How does the Weed and Seed Program differ from the Comprehensive Communities Program?

Answer. Weed and Seed differs from the Comprehensive Communities Program in the following ways:

- Weed and Seed is a strategy for coordinating and concentrating resources at the neighborhood level to effect visible change in a relatively short period of time. While it requires the support of a wide range of public and private resources, it utilizes only a small portion of the resources from each source. Therefore, no agency is required to commit extensive resources in order to make a significant contribution to participate in a Weed and Seed strategy.
- The Weed and Seed strategy promotes changes in policy, procedure, and practice by demonstrating the impact of those changes in a specific neighborhood. As a result, it trains policymakers, mid-level managers, practitioners, and residents how, through a collaborative effort, they can implement the strategy in other neighborhoods as well as make improvements in the service delivery activities of the participating agencies. The Weed and Seed strategy is designed to respond in a very focused manner to specific problems in a neighborhood. It encourages public and private organizations, through a limited investment of resources, to experiment with different methods of service coordination and delivery and thus encourages innovation.
- The Comprehensive Communities Program contemplates a jurisdiction-wide commitment to crime reduction and prevention, and community revitalization, through a coordinated effort among public and private agencies. It, therefore, provides an opportunity, on a jurisdiction-wide basis, to complement the neighborhood-based effort found in Weed and Seed. Systematic and institutional changes can facilitate many of the components often found in a Weed and Seed strategy. It is our hope that many communities will implement their jurisdiction-wide plan on a neighborhood basis utilizing the Weed and Seed approach.

Question. Do you believe we should continue two separate grant programs that are so similar in mission?

Answer. To assist communities in making change, a variety of approaches should be available to support both jurisdiction-wide and neighborhood-based strategies. By providing different approaches to serve the same mission, communities have the flexibility to select the one that is most appropriate for meeting their needs. An additional benefit of using a variety of approaches is that diversity spawns innovation. This has been demonstrated by major corporations that have made significant advances in product design and service delivery by maintaining parallel though different development strategies.

Question. I understand the Weed and Seed Program has its own office under the Deputy Attorney General—we created the separate office in this bill—but, don't the staff in the Bureau of Justice Assistance provide all the technical assistance and program guidance for Weed and Seed grantees?

Answer. The Executive Office for Weed and Seed (EOWS) and the Bureau of Justice Assistance have jointly designed and developed the Weed and Seed initiative from its inception. The Bureau of Justice Assistance in coordination with EOWS and other OJP components implements and provides both program and financial management of all Weed and Seed grants.

Question. As resources get tighter and tighter, why not, at the very least, fold the administrative function of Weed and Seed into the Bureau of Justice Assistance?

Answer. The Department of Justice, through the Attorney General and the new Deputy Attorney General, and in conjunction with principles of the National Performance Review to consolidate and streamline operations, is reviewing and considering the placement of EOWS. This action is appropriate and pertinent in light of the need to coordinate with major Departmental community program initiatives, such as the Comprehensive Communities Program and the PACT Program.

#### DARE

Question. A program that Senator Domenici and myself strongly support is DARE—Drug Abuse Resistance Education. In fact, we were talking to the DEA administrator the week before last about the success of that program.

In my own state of South Carolina, it is the one program that law enforcement, educators, and prevention experts all agree is worth investing in, and we have given priority to its funding using Byrne Formula Grant resources.

With the changes that you are proposing to the Byrne Grant Program, are there still sufficient resources to fund DARE America?

Answer. Since 1988, the Bureau of Justice Assistance (BJA) has consistently focused a portion of its discretionary resources to support the provision of training and technical assistance for law enforcement officers—State, county, and municipal—through five DARE Regional Training Centers (RTC's) located in Arizona, Cali-

foria, Illinois, North Carolina, and Virginia. This has allowed for the training of more than 18,000 law enforcement officers from 7,000 communities who have impacted over 25 million children through the teaching of the 17-week core elementary curriculum alone. BJA will be able to continue this valued program/service in 1995 out of discretionary funds. Additionally, local DARE officers would be eligible for funding under the Community Policing Program as proposed in the pending Crime Bill.

*Question.* Does the Administration support dedicating some of the funding we will commit for prevention programs in the crime bill for the DARE America Program?

*Answer.* Prevention is a primary component of the Crime Bill and the Administration supports the commitment of funds for prevention education, especially as it relates to DARE. We recommend the continuation of DARE Officer Training for new officers; DARE In-service Training for experienced officers; Mentor Officer Training; DARE Parent Program Training for instructors who work with and train parents using the DARE curriculum; DARE junior and senior high school student training; program development; assessments for DARE Training Centers; accreditation of law enforcement agencies as DARE Training Centers; and monitoring and technical assistance for agencies replicating the DARE Program nationwide. We do not, however, support specific earmarks or dedicated funding for specific organizations. It should also be noted that new initiatives proposed in the Senate-passed version of the Crime Bill, such as Title XXVIII-Safe Schools, could provide additional authority and funding for programs such as DARE.

#### LESS-THAN-LETHAL TECHNOLOGY

*Question.* One area that I believe shows promise for helping law enforcement is by developing, testing, and providing new technologies.

For example, I know that the National Institute of Justice was very involved several years ago in the development of soft body armor which has saved more than 1,500 police officers' lives across this country.

What priority are you placing in your budget for developing new technology tools for law enforcement like less-than-lethal weapons?

*Answer.* In 1994, NIJ has allocated \$5,750,000, representing 25 percent of NIJ's appropriation, for science and technology development projects. Because NIJ's mission is to cover all aspects of the criminal justice system, NIJ has begun to work cooperatively with and to leverage funds from many Federal agencies and industry to assist with science and technology development for criminal justice applications.

Until recently when these cooperative efforts were undertaken, the role of the National Institute of Justice has been primarily one of funding the development of promising technologies in a few key areas. Only in the past year has it also become one of identifying existing technologies, especially in the defense and intelligence communities, encouraging promising new concepts and facilitating the transfer of already developed technologies to law enforcement use.

By late 1992 and early 1993, a series of grants, cooperative agreements and inter-agency agreements had been initiated by NIJ in an effort to form a broad-based technology identification, development and transfer program which has focused from the beginning on the practical needs of the user community. State and local law enforcement, as well as corrections departments and other users, have been and continue to be included as the essential components of the NIJ technology team. To ensure that policy and human factors issues are properly addressed in the collection and analysis of background data on use of force by law enforcement personnel, and to ensure that these issues are properly represented in considering technology development for law enforcement, social scientists and criminal justice researchers are also included as part of the NIJ team.

NIJ is working to leverage research and development efforts by industry and other Federal agencies. To start the search for new technologies, NIJ turned to the vast technical expertise that exists within the Department of Energy national laboratories, particularly in the special technologies programs at the facilities charged with development of technology for intelligence gathering and the safeguarding of nuclear materials. At the same time, NIJ began aggressive efforts to identify military and intelligence community technologies that may be candidates for dual use under the Administration's defense reinvestment initiative announced early in 1993.

On April 20, 1994, the Vice President of the United States hosted the signing by the Attorney General and the Deputy Secretary of Defense of a Memorandum of Understanding which establishes a Joint Program Office within the Advanced Research Projects Agency (ARPA) of the Department of Defense, manned jointly by Defense and Justice, which will identify and coordinate the development of Defense and intelligence community technologies that have special promise for law enforcement.

Justice and Defense have already initiated a joint project to develop a technology for military medicine that can also be used by law enforcement: to dramatically improve electronic incarceration by continuously monitoring the whereabouts of individuals on probation or parole and alerting corrections personnel when restrictions are violated; alert/monitor suicide risks in corrections facilities and elsewhere; monitor the health of prisoners in custody and reduce in-custody deaths; and provide emergency location and status information on police officers in trouble.

*Question.* Can you give the committee some examples of new technologies that NIJ is working on that show promise and that we can get out to law enforcement around the country?

*Answer.* NIJ's principal technology interests are in those we can develop within limited resources and field quickly. Although the NIJ technology transfer program is less than a year old, it has already produced:

- Interest in the national laboratories, defense and intelligence agencies, and in defense industries in including law enforcement requirements in research and development efforts;
- A revolutionary new fingerprinting device which we took from concept to commercial product in barely 18 months, at a total research and development investment of less than \$100,000. Developed under an NIJ grant by the Alaska Crime Laboratory, this \$150 device was first announced in February 1994 and we are told that the 3M Corporation alone has already sold more than 100,000 units and has another 100,000 back-ordered, even though it has done little advertising yet;
- A prototype rear seat airbag to safely restrain uncooperative prisoners in the back seats of police cars;
- A breadboard velocity-adjusting weapon that will allow rubber bullets or other safe projectiles to be fired without causing injury at any distance;
- The first serious effectiveness and medical evaluations of safety issues surrounding the use of pepper spray by law enforcement; and
- The development of teams at each of the five national laboratories involved in NIJ projects, made up of scientists, local police and corrections officials and social scientists working to develop practical and affordable less-than-lethal technologies.

In addition, the NIJ has initiated projects to:

- Develop a weapon that can be fired only by its owner to protect police officers and make handguns in the home safer;
- Develop safe ways to stop cars in certain situations;
- Develop disorienting or dazzling light systems with protective eyewear for police;
- Identify anesthetic compounds with very high safety margins and develop effective ways to simultaneously deliver both the compounds and antidotes;
- Develop synthetic compounds that can be used to identify particularly difficult fingerprints;
- Improve the efficiency of DNA identification by developing tools to allow the rapid processing of large numbers of samples. (There is also a significant military requirement for this capability and army medical personnel have been part of NIJ's DNA research evaluation process for several years.);
- Develop better technologies for the identification of trace evidence;
- Put key reference materials developed by the National Institute of Justice and essential to crime laboratories and investigative agencies on digital media, such as CD-ROM systems;
- Develop, publish and—in some cases—administer standards for key law enforcement equipment such as soft body armor, DNA identification technologies, handguns, handcuffs, police car packages and other equipment; and
- Publish materials to provide law enforcement agencies information on new technologies.

We would be happy to make the Science and Technology Division staff available to brief you in detail on any of these projects.

#### REGIONAL INFORMATION SHARING SYSTEM (RISS)

*Question.* The Administration has proposed the elimination of funding for the Regional Information Sharing System (RISS) Program in fiscal year 1995. Currently funded at \$14.5 million, RISS supports 6 regionally based centers which gather and disseminate intelligence and criminal information among States in these regions.

Congress has long recognized the critical role RISS organizations play in addressing multi-jurisdictional crime, and have provided the resources to support them since their inception in the 1970's.

Since career professionals at the Department's Bureau of Justice Assistance—which administers the RISS Program—have found RISS to be “\* \* \* one of the best OJP services to State and local law enforcement \* \* \*” why has the Department requested no funding for RISS in fiscal year 1995?

**Answer.** In proposing the termination of Federal funding for the RISS Program, we are not questioning the value of the program. However, the RISS projects were started in the late 1970's and were originally intended to be demonstration projects, with the expectation that financial support would eventually be provided by participating State and local law enforcement agencies. The Department's funding assistance for State and local law enforcement programs has traditionally been intended as seed money to assist with start-up costs, ascertain its usefulness, then cease as the project is institutionalized with local support. The RISS Program is a useful, functioning activity, and no longer a demonstration program. These resources are now needed by the Department to fund new innovative projects.

The Administration believes that making a greater number of direct awards from the Federal Government to State and local units of government will result in a more effective deliverance of Federal resources and services. The Federal Government should focus its resources on targeted programs, which can be subjected to rigorous assessments and evaluations. We believe this approach will result in a more effective allocation of Federal dollars. This also provides an opportunity to work across various Federal agencies to provide comprehensive funding packages. While States and local units of government have had some success in putting together packages, the Federal Government can adopt policy that makes this approach more viable.

**Question.** The National Drug Intelligence Center (NDIC) has been after the RISS database for years. Also, the INS' initiative to track criminal aliens has turned to RISS program managers for technical assistance.

Recognizing the expertise and invaluable data the RISS Program offers Federal law enforcement, how can the Department risk eliminating their source of funding?

**Answer.** The scarce resources available to the Department do not allow for the maintenance of all worthwhile programs that benefit State and local agencies. The RISS centers will find it necessary to identify alternative sources of funding. Following are potential funding sources that should be pursued by the RISS projects:

- The appropriation of funds by State legislatures.
- Membership fees could be assessed to all participating agencies. (Currently, each RISS project charges a minimal membership fee, which only covers approximately 5 percent of operating costs.)
- A fee-for-service charge could be imposed.
- Support could be sought from existing Federal intelligence systems.

**Question.** Wouldn't Federal law enforcement find itself reinventing a program and database that already exists?

**Answer.** There are several Federal intelligence and criminal information databases, such as El Paso Intelligence Center and NDIC, that already exist. The Federal database systems have already begun to broaden their outreach to gather information from State and local agencies and then expand their systems to incorporate that information. NDIC is currently in the process of developing relationships with State and local agencies in an effort to secure their participation in the Center. Although the RISS projects have been providing some assistance in that regard to date, NDIC can also work directly with the State and local agencies that provide their information to the RISS projects.

**Question.** What impact will the elimination of funding for the RISS Program have on the gathering and dissemination of national intelligence and criminal information?

**Answer.** While there are Federal intelligence and criminal information data bases, such as EPIC and NDIC, there is no comprehensive system or network that can readily facilitate the interstate sharing and exchange of information generated at the State and local levels. Therefore, the national intelligence systems should expand services to include more participation by State and local agencies.

#### QUESTIONS SUBMITTED BY SENATOR J. ROBERT KERREY

##### JUVENILE JUSTICE

**Question.** In the Office of Juvenile Justice and Delinquency Prevention's (OJJDP) proposed comprehensive plan, there is a great emphasis on prevention which I think is the right area on which to focus. Many of the funding goals are the type usually associated with other agencies, namely, Health and Human Services and Education. To what extent did OJP coordinate with other agencies in the development of its comprehensive strategy? What is the best way to ensure that we are not creating

grants that duplicate funding already in existence? How can coordination be achieved to address the needs of families with violent members?

Answer. The Coordinating Council on Juvenile Justice and Delinquency Prevention, established by the Juvenile Justice and Delinquency Prevention Amendments of 1992 (Public Law 102-586), but not yet operational for lack of citizen-practitioner appointments, is the appropriate vehicle to insure coordination between Federal agencies in implementing a comprehensive approach to serious, violent, and chronic delinquency. Federal agencies represented on the Coordinating Council are: Health and Human Services, Labor, Education, and Housing and Urban Development. The Council can insure that there is no duplication of funding through agreements that designate "lead agencies" in specific funding areas and by fostering joint program planning and funding between member agencies. The latter would provide an excellent mechanism for implementing multi-agency approaches to meeting the needs of families, including those characterized by abuse and other forms of violence.

Question. In the OJJDP Proposed Comprehensive Plan, one of the studies mandated is a study of admissions of juveniles with behavior disorders to private psychiatric hospitals. I am particularly interested in this issue because of the situation Nebraska is facing. In Nebraska, Medicaid costs for children's psychiatric services increased from \$17 million in 1989 to \$40 million in 1993. Medicaid expenditures for Nebraskans under age 13 are growing faster than expenditures for any other age group of youths receiving such assistance. If a family is not eligible for Medicaid, it sometimes is encouraged to forfeit parental rights to make a child a ward of the State in order to receive treatment. Some services in Nebraska are coordinating mental health services for youth to provide an array of treatment options including residential care, partial day treatment and specialized foster homes. What is the status of the study, and what do the preliminary results of that study show?

Answer. The study referenced is not in OJJDP's Comprehensive Plan but is a mandate in the Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974, as amended. The 1992 amendments to the JJDP Act added Section 248(b)(2) which states:

"Not later than 1 year after the date of enactment of this subsection, the Comptroller General shall—

(A) conduct a study with respect to admissions of juveniles for behavior disorders to private psychiatric hospitals, and to other residential and nonresidential programs that serve juveniles admitted for behavior disorders, that reviews—

(i) the frequency with which juveniles have been admitted to such hospitals and programs during the 5-year period ending December 1992; and

(ii) conditions of confinement, the average length of stay, and methods of payment for the residential care of such juveniles; and

(B) submit to the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate a report on the findings made in the study and recommendations to improve procedural protections and conditions for juveniles with behavior disorders admitted to such hospitals and programs."

OJJDP has contacted the staff person at the General Accounting Office who is working on this study and was advised that the study is in the final steps of the report review process and is expected to be published in final by the end of July 1994.

#### ROLE OF FEDERAL GOVERNMENT IN FIGHTING CRIME AND VIOLENCE

Question. For many reasons, the Federal Government has become increasingly involved in issues that previously were left to States to control such as crime and violence. What do you see as the proper balance between the Federal Government setting funding priorities in the fight against crime, and State analysis of their own needs?

Answer. Traditionally, crime is a local problem and the Federal Government has supported local initiatives. However, because of the great rise in violent crime, this Administration has determined to focus its resources on the programs that have the best chance of success, such as community policing.

#### EDWARD BYRNE FORMULA GRANTS

Question. It is my understanding that the Department of Justice has restored \$125 million to the Edward Byrne formula grant allocation to States. The Department has calculated that this amount will be sufficient to cover the Federal share

of all existing multi-jurisdictional drug task forces. These are very important to Nebraska, yet Nebraska funds many more important initiatives with this grant.

The grant has been very useful for Nebraska in identifying problems, needs, and establishing funding priorities. Federal funds administered through a formula grant, like Byrne, ensure that States like Nebraska receive a fair share of available funds and allow States flexibility to address their specific needs.

What is the Federal role with regard to smaller States which may not be able to compete for discretionary funds against other areas in the nation yet face serious crime and violence issues of their own?

Answer. The amended request of \$125 million will provide continuation funding for the task force activity at approximately the 1993 level of support. However, the States will also have the flexibility to spend these funds on any of the other 21 purpose areas.

The Department's 1995 \$2.4 billion budget request for the Crime Control Fund includes \$2.1 billion for State and local assistance, which combined with the request for Juvenile Justice, the Edward Byrne program, and the Asset Forfeiture Fund represents an increase of more than 300 percent for State and local criminal justice assistance. The Department is requesting funding for an array of new initiatives such as \$1.72 billion for the proposed community policing program, \$100 million for criminal records upgrading, \$300 million for a new border security and illegal immigration initiative, and \$303 million for innovations such as drug courts, drug treatment and boot camps. Although the distribution of these resources by State will depend largely on the passage of the Crime Bill and the individual needs of localities, it is expected that the States' share of the new funding will significantly exceed what is now provided. For example, both the House and Senate version of the COPS-on-the-Beat/Community Policing Program stipulates a minimum allocation to the 56 States, territories and possessions: .25 percent of the total amount appropriated in the House-passed version and .6 percent of the total amount appropriated in the Senate-passed version. While the methodology that will be utilized to distribute the Community Policing funds will depend on the final legislation adopted by Congress, we expect the methods used will be responsive to both urban and rural jurisdictions. The primary difference between the Byrne Formula Grant Program and the new Community Policing Program will be the targeting of resources in more defined program areas.

BJA will also address the special needs of rural areas with discretionary programs, such as the Innovative Neighborhood Oriented Policing (INOP) Demonstration in Rural Jurisdictions Program and the Rural States Crime Prevention Association Initiative. The rural INOP program is designed to demonstrate a prototype for neighborhood-oriented policing in rural jurisdictions. The program re-orientes police work from strictly response-driven incident-handling toward a more anticipatory, comprehensive attack on community conditions linked with crime and illicit drugs. The program was initially funded in 1992. Three sites will receive final-year continuation funding in 1994.

Also, through the discretionary program titled Rural States Crime Prevention Association Initiative, BJA will assist up to three established State crime prevention associations that support major rural populations. The goal of the program is to strengthen and help institutionalize statewide community policing and crime prevention programming through coalition building with external partnerships and interagency cooperation, technical assistance and training, and the dissemination of quality prevention information/materials.

#### VIOLENT YOUNG OFFENDERS

*Question.* In the last several years, there has been a growing awareness of the importance of violence prevention and a recognition that funding prevention activities is not only valid, but is a necessary aspect of fighting crime. Yet, Nebraska faces an increase in violent youth. In 1992, persons under age 25 accounted for 48 percent of the murder/manslaughter arrests, 42 percent of rape arrests and 51 percent of felony assault arrests. With over 1,100 known gang members in the Omaha area alone, we cannot ignore the current problem. Given your experience, what approaches do you think work best to turn young, violent offenders away from a life of adult crime?

Answer. The Office of Juvenile Justice and Delinquency Prevention has identified a variety of approaches that are designed to prevent delinquency and intervene with serious and violent juvenile crime. First, primary prevention can best be achieved if it is based on integrated strategies that impact on the risk factors that lead to delinquency or violent delinquency. These risk factors fall into four domains: (1) Community; (2) Family; (3) School; and (4) Individual/Peer. Within these domains,

there are several risk factors that can contribute to delinquency and other negative behaviors. However, there are children who grow up in disintegrating neighborhoods and in chaotic families that do not enter into a life of delinquency and crime. These children often are supported by what we call "protective factors" that enable them to avoid negative influences and behaviors. Such factors include a resilient temperament and a commitment to core social institutions such as the family and the school. They also tend to have healthy beliefs and clear standards.

Thus, the goal of the Social Development Strategy, which was developed by David Hawkins and Richard Catalano at the University of Washington, is to help children develop into healthy adults. This can be done by helping parents and teachers to develop and set clear standards and promote healthy beliefs. When young people are motivated to follow clear standards and develop healthy beliefs they become bonded to positive role models and to the socializing institutions of our society. Children must also be provided opportunities to contribute to their families, schools and communities. They must be taught the skills to effectively take advantage of the opportunities provided to them. They must also be given recognition and acknowledgement of their efforts. This is the model that OJJDP is utilizing to train communities that are competing for funds under Title V of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, 42 U.S.C. 5781.

OJJDP has also developed, in its Comprehensive Strategy to Address Serious, Violent, and Chronic Delinquency, a program of graduated sanctions that is designed to impact on those youth that do become involved in delinquent conduct. A copy of the strategy is being provided to the Subcommittee. To support and develop the Strategy and its implementation at the local level, OJJDP awarded funds to the National Council on Crime and Delinquency (NCCD) to examine the literature to determine the most promising or empirically supported programs for both prevention and intervention with delinquent offenders. NCCD's report is in draft and should be completed in June. NCCD has identified 12 programs whose success is supported by empirical research. These programs are:

*Early Intervention:*

*Family and Neighborhood Services (FANS) Project.*—This project involves the utilization of "multisystemic therapy" (MST)—characterized by "highly individualized family- and home-based treatment" designed to deal with offenders in the context of family and community problems. This program has been implemented in South Carolina.

*Choice Program in Baltimore, MD.*—This is an intensive monitoring and multiple-service program for high-risk youth. Like MST it is an intensive, home-based, family-oriented program.

*Michigan State Diversion Project.*—This is a university-based program that uses college students as case workers for young offenders. College students work with the diverted youth on a one-to-one basis in the community and family context.

*North Carolina Court Counselors Intensive Protective Supervision Project.*—These youth are in the juvenile justice system and they are worked with intensively by case workers who also broker services as needed.

*Intermediate:*

*Lucas County Intensive Supervision Unit (ISU).*—This Intensive Supervision program serves nonviolent felony offenders committed to the Ohio Department of Youth Services. The program provides case management and surveillance services to the youth.

*Wayne County Intensive Probation Program.*—This program is administered by the Wayne County, Michigan Probation Department and two non-profit agencies under contract with the Court. The program has 220 youth in one of three programs that provide case management and supervision services.

*About Face.*—This is a boot camp program in Memphis, Tennessee for non-violent males aged 14–17. The youth are committed to the boot camp for three months in a non-secure residential facility followed by 6 months of intensive aftercare.

*Spectrum Wilderness Program.*—Spectrum is a 30-day therapeutic outdoor program for delinquent and otherwise troubled youth. It is operated by the Touch of Nature Environmental Center at Southern Illinois University.

*VisionQuest.*—This national program serves as an alternative to incarceration for serious juvenile offenders. Referred youth spend 12–15 months in various challenging outdoor "impact" programs. VisionQuest headquarters is located in Tucson, Arizona and they have programs in a number of States.

*Thomas O'Farrell Youth Center.*—This program consists of a 38-bed, unlocked, staff-secure residential program for youths committed to the Maryland Department

of Juvenile Services. The program is operated by the North American Family Institute.

*Secure:*

*Florida Environmental Institute (FEI).*—FEI serves youth who have been tried in adult court but have been referred back to the juvenile system for treatment. The FEI center is a non-secure facility in a remote area of Florida. There are very high staff to juvenile ratios at the Center. The program also has an after-care component.

*Capitol Offender Program.*—This program was initiated in 1988 at the Giddings State Home and School in Texas for juveniles who have committed homicide. The youth are incarcerated for an average of two and one-half to three years. The program features an intensive therapeutic group program that meets several times a week.

More detailed information will be available on these projects in the final report scheduled for June 1994.

SUBCOMMITTEE RECESS

Senator HOLLINGS. Thank you a lot. The subcommittee will stand in recess until 10 a.m., Thursday, April 28, when we will review the budget requests of the U.S. Information Agency and the Federal Communications Commission.

[Whereupon, at 11:10 a.m., Tuesday, April 26, the subcommittee was recess, to reconvene at 10 a.m., Thursday, April 28.]



**DEPARTMENTS OF COMMERCE, JUSTICE,  
STATE, THE JUDICIARY, AND RELATED  
AGENCIES APPROPRIATIONS FOR FISCAL  
YEAR 1995**

**THURSDAY, APRIL 28, 1994**

**U.S. SENATE,  
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,  
Washington, DC.**

The subcommittee met at 10 a.m., in room S-146, the Capitol,  
Hon. Ernest F. Hollings (chairman) presiding.

Present: Senators Hollings, Bumpers, Lautenberg, Kerrey, and  
Stevens.

**U.S. INFORMATION AGENCY**

**BOARD FOR INTERNATIONAL BROADCASTING**

**STATEMENTS OF:**

**JOSEPH D. DUFFEY, DIRECTOR, U.S. INFORMATION AGENCY  
DANIEL A. MICA, CHAIRMAN, BOARD FOR INTERNATIONAL BROAD-  
CASTING**

**ACCOMPANIED BY:**

**JOSEPH B. BRUNS, ACTING ASSOCIATE DIRECTOR FOR BROAD-  
CASTING  
BARRY FULTON, ACTING ASSOCIATE DIRECTOR FOR EDU-  
CATIONAL AND CULTURAL AFFAIRS  
DOUGLAS WILSON, DIRECTOR OF CONGRESSIONAL AND INTER-  
GOVERNMENTAL AFFAIRS  
STANLEY M. SILVERMAN, COMPTROLLER, OFFICE OF THE COMP-  
TROLLER  
CARL GERSHMAN, PRESIDENT, NATIONAL ENDOWMENT FOR DE-  
MOCRACY  
KENJI SUMIDA, EXECUTIVE VICE PRESIDENT, EAST-WEST CENTER**

**OPENING STATEMENT OF HON. ERNEST F. HOLLINGS**

Senator HOLLINGS. Today the subcommittee continues its review of the President's fiscal year 1995 budget, in reviewing the request for the U.S. Information Agency, including the request for the Board for International Broadcasting, and the budget request for the Federal Communications Commission.

For fiscal year 1995, the President's budget requests \$1.430 billion for the U.S. Information Agency, which includes \$637 million for Federal international broadcasting programs. The USIA broadcasting budget includes \$257 million to be transferred to the Board for International Broadcasting.

We will hear first from Dr. Joe Duffey, the Director of the U.S. Information Agency, regarding overall USIA programs, and international broadcasting. We will then hear from Dan Mica, Chairman of the Board for International Broadcasting, regarding the request for Radio Free Europe and Radio Liberty.

Dr. Duffey, we welcome you to the committee, and we will include your statement in its entirety in the record. You can deliver it if you wish, or highlight it, either way.

#### SUMMARY STATEMENT OF DR. DUFFEY

Dr. DUFFEY. Thank you, Mr. Chairman. Since time is short today, let me enter my statement into the record, and make only a few comments.

With me is Stan Silverman, whom you know, and whom I have worked with in the past; Joe Bruns from the Bureau of Broadcasting; Barry Fulton from the Bureau of Educational and Cultural Affairs; and Doug Wilson, the Director of Congressional and Intergovernmental Affairs.

This is the time, when we are attempting to serve the Nation's Government, that we should speak as plainly and directly as we can. Let me try to do that.

USIA exists to pursue our national interests through several different kinds of activities. We are concerned, first of all, that the public's civic leaders and journalists in the rest of the world should understand the policies and the objectives of the United States.

We try to accomplish that through the work we do with the foreign press here in the United States, and through distribution each day of the wireless file in a number of languages around the world. This carries official statements and explanations of U.S. policy. We pursue that objective as well through international broadcasting, and through the work of our officers and Embassies in every region of the world.

I know that members of this committee are acquainted with the work of our Embassy personnel from their visits to overseas posts; and with the work they are doing to represent the American people and American interests.

The job we do is as important as it ever was. Indeed, it may be more important now, when we need the understanding of other nations as we seek to define and pursue our own interests, and contribute to a world of peace with justice and stable productive relations between nations and cultures.

We also work to try to help policymakers here understand public sentiment in other parts of the world, through analysis of the press, polling, and otherwise. We try to understand and remain sensitive to public opinion, not because we always fashion our policies to please publics in other countries, but because understanding the perspectives and sentiments of the public in other nations is vital to our success, to pursue our goals.

I have begun, with my colleagues this last year, Mr. Chairman, to face up directly to the question of addressing the deficit in the Federal budget; and we have adopted a number of goals to more carefully redefine this agency and what it does.

The budget you have before you has an increase in funding, but that masks the fact that substantial reductions are taking place in

personnel. We are setting aside some programs that USIA has done for 40 years, in order to be able to do what we do better and more sharply, and to think about how it is affecting us. We are trying.

Our first goal is to keep our representation in 142 countries strong; and to be, among the international relations agencies, one that gives clear priority to the work it does; representing this country overseas.

There are three considerations in the budget we have put before you: the policy of our Government, what our interests are, and how we pursue them; the measure of what is effective, the technical questions: How can we do this best with new technology and knowledge? And third, the question of economy and responsibility in the handling of public moneys.

#### PREPARED STATEMENTS

I will be glad to respond to questions about the proposals that the administration has put before you with respect to next year's budget, along with my colleagues.

[The statements follow:]

#### STATEMENT OF JOSEPH DUFFEY

Mr. Chairman, Members of the Subcommittee: I appreciate the opportunity to discuss with you today the fiscal year 1995 appropriation request for the United States Information Agency.

Several of my USIA colleagues are here with me today: the Acting Associate Director of Broadcasting, Joe Bruns; and of Educational and Cultural Affairs, Barry Fulton; the Director of Congressional and Intergovernmental Affairs, Doug Wilson; and the Comptroller, Stan Silverman.

The Washington Office of USIA is just down the Hill from where we sit today. In fact, I can see the Capitol Building from my office window. Visitors to my office often remark on one of my prize material possessions—a large and very old Bryson of Edinburgh telescope that is trained on the Dome itself. It is so powerful that I can study the very headress of "Freedom."

However, as you might imagine, peering through the telescope doesn't give me a whole lot of information about what's going on in Congressional committees. And, due to what is supposed to be efficient "climate control," my windows do not open. If they could be opened, this time of year I think I might hear a familiar sound being vented from these hallowed halls. It is a sound which can convey delight or terror to the heart of any agency chief—the inexorable crunching of many numbers.

I promise to give you some solid numbers to work with. But, before we get to the arithmetic, I would like to talk to you for a few moments about the wholesale reorganization we are now undertaking at USIA. It is both broad and deep.

When I gratefully accepted President Clinton's invitation to become director of the USIA, I already knew that a great deal of my responsibility would center around the need to shrink the agency's budget. You know what "shrink" usually means; it means cutting jobs and programs.

This necessity—this mandate—was hardly a surprise to me or to the team that came into the agency with me. We heard what the voters were telling us in the 1992 elections. They had determined that government should be more efficient and accountable. They want to believe that their tax dollars are being spent on programs that justify the personal sacrifices they have been asked to make.

And so our instructions were clear—if broadly stated through the powerful but sometimes imprecise commands of the ballot box. Federal departments and agencies simply had to restrain spending. If they did not do so, the federal deficit would continue to mushroom and people were going to get madder and madder.

This much is a given.

So far I have been talking in broad terms about federal programs. Now let me focus on the programs for which my colleagues and I are responsible, those of the USIA and what is sometimes called "public diplomacy." That is, instead of government-to-government discourse, which is the domain of the State Department, the USIA's mission centers around people-to-people diplomacy.

Our job is summed up in the USIA's motto, "Telling America's story to the world." We tell that story and strive to create mutual understanding through:

- The "Wireless File," our daily computer-linked news and information service, which carries official texts, policy statements, feature articles, interpretation, and reprints from American publications to U.S. government facilities overseas;
- The U.S. Speakers Program, which sends Americans to scores of countries to share their professional experiences with foreign audiences;
- The Fulbright, Muskie, Humphrey, International Visitors, and other valuable and well-known educational exchange programs;
- Broadcasts targeted at Cuban audiences;
- The WORLDNET satellite television system, which allows interactive dialogue between U.S. officials and journalists and leaders all over the world;
- A network of cultural- and reference-resource centers managed by 211 information posts in 147 countries;
- The Voice of America, which now broadcasts worldwide in more than 40 languages.

This represents only the broadest picture of USIA's most visible activities. In our dialogue today, I can hardly do justice even to these programs, much less to important activities I do not have time to mention.

The members and staff of this subcommittee are well versed in USIA's mission, so I assume I don't need to offer up much of a primer. Our principal authority derives from the Smith-Mundt Act of 1948 and the Fulbright-Hays Act of 1961. The details through which we have acted on this overall mandate have been developed over 40 years, and enormous credit should go to my predecessors. Their imagination and energy over the decades have made the USIA the effective and respected agency that it is today.

What the USIA is today, however, is not what it will be when we meet again a year from now. Under the rubric of government-wide restructuring and downsizing of which I spoke a moment ago, the USIA is doing its part. In fact, we are, I believe, ahead of most of the government in responding to the Administration's directives.

Viewed as a percentage, our cuts in programs are a small part of the immense and fundamental effort that cabinet members and agency heads are undertaking. However, for some of the dedicated employees at the USIA, the changes are profound. They call for resourcefulness, flexibility, and personal sacrifice.

As Yogi Berra once memorably advised, "When you come to a fork in the road, take it."

And we are, no doubt about it, at a fork in the road. Perhaps more cogently, and surely more eloquently, I call on Shakespeare's Julius Caesar: "We must take the current when it serves, or lose our ventures."

So let me cut right from the overview—the rhetoric about the post-Cold War world and the much-touted New Information Age—to USIA's specific plans. Here are the highlights of what we plan to do:

- Consolidate all non-military U.S. international broadcasting into a new International Broadcasting Bureau under the USIA umbrella. This new organization will be comprised of the Voice of America, Radio Free Europe, Radio Liberty, Broadcasting to Cuba, WORLDNET TV, and the new Radio Free Asia;
- Realize significant consolidation savings by reducing administrative overlap, rationalizing broadcast services, and pooling technical broadcast resources—while termination costs require an increase in 1995, net outlay savings of \$400 million are projected from 1994 through 1997;
- Replace the Bureau of Policy and Programs with a new, more focused, and technologically sophisticated Bureau of Information;
- Cease the production of large-scale exhibits and stop publishing global and regional magazines prepared here in Washington;
- Discontinue the International Book Exchange Fund, book exhibits, and book fairs except in Eastern Europe and the republics which emerged from the former Soviet Union;
- Streamline our library and data-bank support, the Wireless File, and our global high-speed transmission channel to provide accurate and timely support for U.S. government initiatives;
- Combine all programming of speakers and specialists, in concert with the interactive capacity of WORLDNET TV, to connect American opinion leaders with foreign audiences at low cost and with maximum impact;
- Coordinate USIA policies through a small central unit which can reflect new priorities in the post-Cold War world;
- Reduce administrative and overhead costs by streamlining our operations, thereby concentrating our resources in field posts which, even though they

might be smaller, will be more effective; these posts are, after all, our final point of communication with foreign public opinion;

—Combine our Research and Media Reaction offices in order to bring to U.S. government officials timelier and more effective reporting of public opinion and media commentary in other countries.

Through these steps, we expect to save \$79.9 million in broadcasting and \$15.2 million in non-broadcast operations. It gives me no pleasure to report that this will mean the elimination of 168 positions in broadcasting and 221 positions from other activities. Through expanded opportunities for retraining, reassignment of responsibilities, early retirement and "buyouts" we hope to limit the number of persons subject to layoff and "reduction-in force" provisions.

On an overall basis, Mr. Chairman, USIA's 1995 request totals \$1.43 billion, a net increase of \$79.4 million over 1994 appropriations as enacted and adjusted by rescissions. This increase will provide \$74.8 million for the consolidation of international broadcasting operations and \$4.6 million for all other USIA operations and accounts.

The net increase of \$74.8 million for broadcasting operations will provide:

—\$105 million to cover termination costs associated with the downsizing of RFE/RL;

—\$24.1 million for continuing modernization of VOA technical facilities and initial network consolidation; and

—\$25.6 million for the cost of maintaining current service operations for VOA and WORLDNET (\$10.8 million) and Broadcasting to Cuba (\$7 million), and for establishing a Radio Free Asia program (\$7.8 million).

—These increases are partially offset by program reductions of \$79.9 million in RFE/RL (\$58.3 million), VOA/WORLDNET (\$21.2 million, including \$13.7 million in new 1995 program cuts and \$7.5 million in 1995 full-year savings of reductions begun in 1994), and Radio Broadcasting to Cuba (\$4 million).

The remaining \$4.6 million increase for net built-in requirements and program changes for all other USIA operations and accounts will provide:

—\$35.7 million for inflationary cost increases, mainly foreign national wage scales and price increases for the Agency's overseas operations and Federal pay raise costs, and other built-in requirements; and

—\$9.9 million to enhance democracy-building programs of the National Endowment for Democracy (\$9 million) and to open new posts in Hanoi and Ho Chi Minh City, Vietnam and re-establish the Public Affairs Officer position in Beirut, Lebanon (\$9 million).

—These increases will be largely offset by 1995 program reductions totaling \$41 million and 222 positions. These cuts will be applied to Salaries and Expenses (\$15.2 million, 221 positions) related primarily to the restructuring of Agency programs; Exchange Programs (\$15.7 million); the East-West Center and Inspector General accounts (\$2.4 million, 1 position); and the North/South Center (\$7.7 million).

Mr. Chairman, we look forward to working with you and your colleagues. My associates and I would be happy to reply to your questions.

#### STATEMENT OF CARL GERSHMAN

Mr. Chairman and Members of the Subcommittee: I am pleased to appear before you today to support the Administration's fiscal year 1995 budget request for the National Endowment for Democracy, and to share with you—and to hear your reactions to—some ideas about our future direction as we enter our second decade.

Before doing so, I want to take this opportunity on behalf of Chairman John Brademas, the NED Board, and, indeed, the entire Endowment family to thank Senator Hollings, Senator Domenici, and all others who provided critical support during the appropriations battle last year. Those both inside and outside the Congress who stood up for NED during that battle recognize the value of the programs we fund in over 75 countries. But just as importantly, they understand that the Endowment is much more than a grant-making organization. It embodies the central concept of how we stand up for those in the world who seek the freedom to choose their leaders and insure their accountability.

#### THE CASE FOR CONTINUED ENGAGEMENT

Reading back over last year's floor debates, I was struck by how closely they reflect the larger issue of the extent to which our country should engage with the world during the post-Cold War period. Mr. Chairman, no one seriously suggests that the U.S. can cut itself off from what happens outside our borders, and to characterize our critics as part of an "isolationist" trend, as some have done, would be

unfair. But to argue that with the Cold War ended, we can now turn away from international engagement for the purpose of tending to our domestic problems presupposes that these problems are unrelated to developments abroad. It is simply fallacious to believe that our prosperity as a nation is not threatened by a world of economic and political disorder.

As the Endowment's supporters in the Congress pointed out during the debates last summer and fall, our country derives numerous practical advantages from the Endowment's effort to help those striving for self-government. History teaches us that democracies do not make war against one another, export weapons of mass destruction, shelter terrorists, or ignore the environment. Democracies honor human rights and provide fertile ground for prosperous economies that are the most effective safeguards against adding to the world's growing population of refugees.

It is not surprising that while the future of NED was being debated in the Congress last year, activists with direct knowledge of the fragility of newly created institutions in their home countries cautioned against complacency regarding the future prospects for democracy. Typical was the assertion of former Lithuanian President Vytautas Landsbergis that the battle for democracy in his country is only "half-complete."

According to Freedom House, 1993 marked the worst single-year setback for freedom in over twenty years of its surveys of political rights and civil liberties around the world. A glance at today's headlines from Moscow to Mogadishu, from Port-au-Prince to Pretoria should make it eminently clear that the struggle for democracy did not end with the fall of communism in the Soviet Union.

The Administration's budget request for NED for fiscal year 1995 is \$45 million, an increase of \$10 million over the current year's level. We are grateful for the strong support for our work on the part of the Administration, as expressed publicly not only by the Secretary of State in his appearances before congressional committees, but by other members of the President's foreign policy team as well. Their support for us during last year's appropriations round was indeed crucial to the outcome. We are also delighted with the close working relationships we have developed with USIA, with which we are cooperating on a number of fronts.

#### LONG TERM DEVELOPMENT IN CRITICAL COUNTRIES

How can the U.S. best remain engaged on the side of those struggling for freedom? The very definition of the Endowment's mission, supporting democratic movements, presupposes that democracy can only grow from within through the work of indigenous organizations and groups. The Endowment does not seek to export or impose democracy, but to plant seeds in the hope that the institutions and values of democracy will eventually emerge.

Mr. Chairman, there is no better illustration of the need for long-term development of democratic culture and institutions than the New Independent States of the former Soviet Union. Two years have passed since the Soviet Union disintegrated into fifteen independent states. In most of those countries—with the possible exception of the Baltic States—the transition to democracy and a market economy has barely begun.

It is clear that in Russia, political democracy and a free market economy have not become widely accepted as the way to improve people's lives. The success of Mr. Zhirinovsky and his associates in last December's elections has raised the alert that democratic values are not as far spread or deep-rooted as may have been assumed. As the failure of Russia to make a peaceful transition to democracy would have serious geopolitical repercussions, the Endowment continues to regard it as high on our list of priority countries. In fiscal year 1995, we plan to support a broad range of civic associations, electronic communications, rule of law projects, and independent media and publishing outlets; in short, projects that strengthen the indigenous roots of democracy.

The Endowment's core institutes continue to be deeply engaged in Russia. The Center for International Private Enterprise (CIPE) has placed particular emphasis on development of business associations which will provide training for entrepreneurs while advocating market reforms. The program of the Free Trade Union Institute (FTUI) in Russia provides sector specific training support while continuing to assist the independent trade unions in their attempts to reach a broader group of workers at the local and regional levels. The International Republican Institute (IRI) and the National Democratic Institute for International Affairs (NDI) helped insure that the December parliamentary elections were conducted in an open and fair manner, and are currently concentrating their efforts toward the development of stable and democratically organized political parties.

The Endowment has long regarded Ukraine as a country of central concern, given its size, strategic importance, and the vitality of its democratic forces. Just last November, NED's core grantees, working together and in conjunction with the U.S.-Ukraine Foundation, convened a broad cross-sectoral seminar to help facilitate increased contacts and cooperation among those groups working on behalf of democracy.

The results of Ukraine's recent parliamentary elections, where anti-reformist elements have scored some gains, underscores the need to continue to support the democratic forces promoting economic and political reforms. It is now clear that the failure to carry out these reforms would have a negative impact on Ukraine's independence, which is critical to the stability of the entire region. However the political situation unfolds in the upcoming months, the Endowment is committed to devoting substantial resources and expertise to the continuing development of independent trade unions, political parties, media, and business institutions.

Mr. Chairman, the debate over the renewal of Most Favored Nation Trade Status for China has highlighted the tension between our commitment to universal human rights on the one hand and desire to expand trade opportunities on the other. While this debate has continued within the Administration and the Congress, NED has been able to work with a wide variety of individuals and groups working to promote both political and economic reforms within the country.

Here again, the China projects take a long-term view of the importance of building civil society as the country prepares for the enormous intellectual and political ferment that is likely to follow the end of the era of Deng Xiaoping. NED programming in fiscal year 1995 will focus on the exile community of activists, reformers-in-exile, and students working with their counterparts inside China to disseminate ideas related to the future of their country. The Endowment's program in China, as in Russia and Ukraine, is increasingly multi-sectoral and pluralistic, combining support for groups that advocate worker and other aspects of human rights with carefully targeted projects aimed at enhancing market reforms and strengthening the role of private voluntary organizations.

In the absence of political reform, China's economic growth has produced growing worker unrest, and leaders of the movement to create autonomous trade unions such as NED grantee Han Dongfang are playing a leading role in the democracy movement. Han, whose leadership abilities and commitment to the cause of freedom and democracy have led many observers to compare him to Lech Walesa, was one of the recipients of NED's Democracy Award presented at our 1993 World Conference.

Another pivotal country whose transition to democracy has strong global implications is South Africa, where Endowment grantees have been actively seeking to ensure a free and fair election. Whatever the outcome of next week's historic vote, South Africa's citizens will need to build up a culture of democracy and pluralism that was crushed by the system of Apartheid.

For the Endowment, this translates into programs to promote democratic dialogue, independent media, research, democratic education, conflict resolution, and leadership training. Both the National Democratic Institute for International Affairs (NDI) and the International Republican Institute (IRI), which have made significant contributions to the electoral process, plan to be active in political party development and in assisting watchdog groups to ensure the integrity of the transition process.

The recent signing of the North America Free Trade Agreement between Canada, Mexico and the United States has put a spotlight on the political system in Mexico, whose ruling party has held a virtual governing monopoly for over 60 years. Mr. Chairman, I am aware of your strong interest in the reform of Mexico's political institutions. We believe that the fairness of the upcoming presidential elections in August 1994 will be a major test of whether Mexico is in fact moving towards a modern political democracy.

The Endowment is providing support to a variety of civic organizations for democracy, which have dedicated themselves to making the August election a test of the government's stated commitment to political reform. Other NED activities in Mexico include support for a human rights group that has investigated abuses in the Chiapas region, where the recent rebellion has also served as a catalyst for serious discussion of the need for electoral reform. Cooperation with organizations in Mexico will not only assist democratization efforts but will also serve to provide an unprecedented foundation for forging grassroots links between Americans and Mexicans.

In each of the countries of high priority, Russia, Ukraine, China, South Africa, and Mexico, the Endowment is committing substantially greater resources in fiscal year 1994 than last year. (For Russia, South Africa, and Mexico each, the projected increment is either near or in excess of 100 percent.) We have been able to raise

the allocation levels in these countries, as well as in the Middle East, where the number of indigenous democratic initiatives we are able to support has increased dramatically during the past year, because of the increased appropriation we received for the current year. In addition to bolstering our program in areas of high priority, the \$5 million increase has also enabled us to identify new grantees, to expand the programs of existing grantees, and to begin operating in countries (such as the Central African nation of Chad) where NED has never before made a grant.

#### NED'S STRATEGIC PLAN

Responding to a recommendation of the General Accounting Office, the Endowment's governing Board of Directors approved in 1992 a strategic plan setting forth broad programmatic objectives for the foreseeable future. The plan calls for NED to emphasize those characteristics that offer a comparative advantage, namely, its multi-sectoral structure, its nongovernmental status, and the singularity of its mission to promote democracy.

#### *A Full Package Response*

The Endowment's multisectoral structure has enabled it to play a broad coordinating role in each of the high priority countries highlighted above. For example, with efforts just getting underway in Mexico to unite the various reformist groups working to insure a free and fair electoral process, we recently brought together representatives of these groups with our core grantees as well as other private U.S. donor groups. This meeting was but one of many NED has convened during the past year to discuss broad multi-sectoral initiatives for the Middle East and for countries as diverse as China, Ukraine, Zaire, and Romania.

Coordinating efforts of this kind have served to offer a full package response to the complex needs of emerging democracies. This response is particularly important in light of the close relationship between political and economic reform, evident in each of the Endowment's high priority countries.

NED has been able to function as a coordinating center as a result of its unique structure, which includes its relationships with the four constituent institutes in the fields of labor, business, and party development as well as a wide array of discretionary grantees that sponsor initiatives in areas such as human rights, conflict resolution, civic education, independent media, and the rule of law. The Endowment's structure reflects the realization that the establishment of democracy is not limited to the successful conduct of elections but involves the strengthening of civil society, democratic political institutions, and democratic culture.

The Endowment's role as a coordinating center for multifaceted democratic initiatives has been further enhanced by work with our counterpart organizations abroad, a process that was set in motion by a meeting held at Airlie House last February. That meeting offered an opportunity for the participants from the U.S., Canada, Great Britain, and Germany to share information and perspectives on democratic institution building, as well as to develop strategies for future cooperation. A follow-up meeting held in Bonn in November hosted by the Konrad Adenauer Foundation focused on the problems of transition in Central and Eastern Europe, and it was decided that the next meeting would be hosted by the Westminster Foundation sometime this year. It was also agreed that the Endowment would explore the possibility of developing a common initiative for the former Yugoslavia.

We have also been in touch with the study commissions examining proposals to establish new democracy foundations in Sweden and the European Community. Furthermore, we are consulting closely with officials in Japan, which sent an observer to the Airlie House meeting, on how best to develop its own approach to providing democratic assistance. Earlier this month Chairman Brademas was able to take advantage of a trip to Japan on other business to hold several high level discussions on this subject, and I will be following up with additional meetings this summer. As we continue these discussions, we are delighted to have as U.S. Ambassador former Vice President Walter Mondale, the immediate past chairman of the National Democratic Institute and a former NED Board member.

#### *Providing Venture Capital*

Mr. Chairman, it is significant that the foundations that have come into existence in Canada and Great Britain since the establishment of NED have been modeled closely along the lines of the Endowment, namely, as publicly funded entities with nongovernmental status and legislative accountability. As called for in the 1992 strategic plan, the Endowment has taken advantage of its own nongovernmental status to become engaged in countries where the forces of authoritarianism continue to prevail.

We regard support to democrats in these countries as "venture capital" to help them overcome the many social, cultural, political and historical barriers they face. To offer a few examples, in the current fiscal year, we have begun or continued programs on behalf of groups working to achieve democratic gains in:

Vietnam, where we are supporting several initiatives designed to promote the country's evolution toward an open and democratic society;

The Middle East, where NED has encouraged the creation of non-governmental organizations and supported activities designed to promote democratic values throughout the region, including the West Bank and Gaza, where both party institutes have begun programs on behalf of groups working to achieve democratic gains;

Cuba, where our trade union institute assists Cuban democratic unionists in building international contacts, publicizing and filing worker rights complaints, and obtaining the release of political prisoners;

Kenya, where our business institute, in conjunction with an indigenous association, is initiating a dialogue between the public and private sectors to expand entrepreneurial opportunity; and

Former Yugoslavia, where we are participating in the rebuilding of civil society in that besieged region through a variety of grassroots initiatives, including support for Sarajevo's only independent radio station and the daily newspaper *Oslobodjenje*, which was literally kept alive last winter as a result of NED assistance.

Mr. Chairman, it is difficult to convey a sense of the richness of the Endowment's global program by a mere description of selected grants, since each of the over 250 awarded during a typical year makes its own unique contribution to the development of democracy. Still, certain programs offer particularly dramatic and creative illustrations of efforts to overcome the kinds of obstacles faced by democrats today throughout the world.

#### IRAQ

One example is the work of the Free Iraq Foundation, which has used Endowment support during its two years of operation to spearhead a move by Iraqi democrats to broaden the espousal of a democratic future for a country victimized by one of the world's most brutal dictatorships. Through meetings, seminars, and presentations, the Foundation has helped to strengthen acceptance by Iraqis of democratic principles and practices, while serving as a focal point and clearinghouse for Iraqi democrats.

During the current year, the Foundation will bring to completion its project for a radio series on democracy, to be broadcast inside the country, as well as continue publication of its newsletter "Iraqi Issues," now being distributed routinely in Iraq via the region under Kurdish administration. The Foundation is also establishing a regional forum for citizen-based monitoring of the Kurdish regional administration and producing a series of studies on a possible future constitution for Iraq.

One of the Foundation's principals, the distinguished Iraqi author Kanan Makiya, has pointed out that these NED-funded projects have created "a new and enriching climate of ideas on issues of democracy, toleration of differences, secularism and the imperative for a central focus on human rights in the building of a new order in Iraq."

#### NIGERIA

While the long-awaited promise of return to civilian rule in Nigeria remains unfulfilled, democratic activists continue to press the military government to make good on its promises. Nonetheless, with each round of protest, increasing numbers of human rights and pro-democracy activists are being arrested for expressing dissent.

With support from NED, the Committee for the Defense of Human Rights (CDHR) has provided a legal assistance program for activists arrested in connection with human rights and pro-democracy action. The Committee, which investigates and disseminates information on human rights abuses, also serves as the lead organization in the Campaign for Democracy, a coalition of 40 labor, human rights, student and other civic organizations which have organized a campaign in support of a return to civilian rule.

Another key component of the coalition, the Civil Liberties Organization (CLO), has used Endowment support to help it branch out to virtually every region of the country and establish a reputation as one of the premier human rights groups in all of Africa. The CLO's Executive Director, Abdul Oroh, has likened NED's work in Nigeria to "oxygen," noting that "if it is scrapped, the democratization process in Africa would be seriously endangered."

## BURMA

One of the most repressive regimes in the world today is the military dictatorship of Burma, dramatized by the five-year detention of the leader of the movement for democracy, Nobel Laureate Aung San Suu Kyi. Since 1990 the Endowment has provided assistance to that movement, enabling it to circulate accurate information about the regime and to promote unity across the numerous ethnic groups it represents.

During the past year, NED has funded a radio program taped in Bangkok and the border areas of Burma and broadcast from Oslo, Norway, under the direction of the democracy movement. The broadcasts of the Democratic Voice of Burma are transmitted over shortwave and received throughout the country. Air time is rented from the Norwegian Broadcasting Station, and information centers for the station are located in Bangkok and Manerplaw, Burma. During the coming year, the programs will be extended to an hour per day, focusing on such subjects as the international effort to free Aung San Suu Kyi and other political prisoners, the efforts of the U.N. to bring the military government into line with international standards, and information about the Burma democracy movement in the liberated areas.

Dr. Sein Win, leader of Burma's government-in-exile, has observed that the Endowment's support for programs such as the radio transmissions "is of great importance and could make a difference between total victory and defeat for the democratic forces."

## FORMER YUGOSLAVIA

While the attention of the world focuses on the inhumanity and destructiveness of the forces of extreme nationalism in the region, several Endowment grantees are managing to bridge ethnic differences in highly constructive ways. One such organization, the Croatia-based Erasmus Guild, has strengthened the voices of peace and dialogue in Croatia and Bosnia-Herzegovina by providing a contact point for Serbs, Muslims and Croats who oppose military conflict as a means of solving national disputes.

As the historic accord signed recently between the governments of Bosnia and Croatia moves forward, steps toward a political solution must also be sought at the grassroots level. The Erasmus Guild is one civic organization in Croatia which has been at the forefront of efforts to promote inter-ethnic understanding. Last November it used an Endowment grant to conduct the first meeting between citizens of Croatia and of Serbia since the war began in 1991. The participants agreed that this roundtable would be the first in a series of inter-ethnic dialogues, and the Endowment is supporting the Guild's second round of dialogues, this one between Muslims and Croats. We are now exploring with the Erasmus Guild the possibility of bringing together democratic practitioners from the region—many of them NED grantees—with Western donor and partner groups to produce an agenda for building civil society in the region.

Iraq, Nigeria, Burma, the former Yugoslavia: in each case the Endowment is supporting civic initiatives designed to lay the groundwork for the establishment of durable institutions and democratic processes which are the only basis for lasting peace.

*A Center of Democratic Ideas*

In addition to taking advantage of NED's multi-sectoral structure and working at the "cutting edge" of democracy, the third element of the 1992 strategic plan calls for an enhanced role for the Endowment as a vital center of democratic ideas. I should point out that in September 1992 the GAO advised that the activities designed to meet this objective are consistent with our authorizing legislation.

Mr. Chairman, the experience of the past few years has shown that the task of consolidating new democracies has proven more complex than simply the toppling of dictatorships. As a consequence of the wave of democratization during the past decade, there is now a vastly expanded range of experience from every region of the globe that can provide valuable lessons about successful strategies for building democracy. Yet many critical questions remain poorly understood, and much remains to be learned about the social, cultural, economic, political, and institutional factors that facilitate or obstruct democratic development.

In January 1994, the Endowment's Board gave final approval to the establishment of the NED International Forum for Democratic Studies. Although the Board has taken the view from the outset that its limited grant funds should be used to assist programs and institutions abroad, it has always recognized the importance of knowledge and the exchange of ideas for the strengthening of democracy. The grants program has benefitted enormously from NED's biennial conference and the Journal

of Democracy, both of which have provided opportunities for activists and other students of democracy to reflect seriously about its key issues.

The International Forum for Democratic Studies will draw upon an unparalleled network of contacts from every corner of the globe to help it systematically address key issues in the effort to promote and consolidate democracy. Through two major annual conferences at which papers will be presented and subsequently published and a series of other smaller meetings, a wide variety of topics will be explored, such as the decline of political parties, the relationship between democracy and human rights, the management and reduction of ethnic conflict, the nature and prospects of Asian democracy, civil-military relations, the causes and consequences of political corruption, and the compatibility of Islam with democracy.

In addition, the Forum will house a collection of the most important publications dealing with democracy, as well as a variety of resource materials produced by Endowment grantees that can be used by others engaged in similar efforts. The library will seek to computerize information on NED programs, and to build a database on democracy promotion in cooperation with the other major organizations in the field.

Needless to say, we are excited about the benefits this initiative will bring to the Endowment's work and intend to keep the Congress fully informed as it develops. The Forum will be formally launched next month with a conference on the relationship between economic reform and democracy, which will include presentations by the former Polish finance minister, the former Venezuelan minister of trade, and the former head of the Economic Commission for Africa. I am happy to report that we have already succeeded in raising private funds to cover part of the cost of this conference.

As you know, Mr. Chairman, it has been the Endowment's policy to use public funds for grants to groups working for democracy and to raise private funds for activities such as the Journal and the biennial conference. In order to prevent expenditures for the Forum from eating into NED's grants program, the Board has made it clear that it expects at least some portion of the cost to be covered, even during this initial period, by privately raised funds. It is hoped that in the long run, the budget can be supported to the maximum extent possible in this manner.

#### RAISING PRIVATE FUNDS

This leads me to the larger subject of raising counterpart support for our program from non-U.S. Government sources. During Senate consideration of the State/USIA authorization, it was proposed that the Endowment and its core grantees be required to raise a set percentage of contributions each year or face a corresponding reduction in the annual authorization.

As our Senate supporters pointed out, a mandated requirement to raise money would have a number of detrimental effects, among them the necessity of creating at substantial expense a large bureaucracy to handle complicated issues related to administration, computation and verification; the enormous expenditure of time and other resources fundraising activity would divert from our central mission; and the lengthening of our programmatic response time to urgent situations in the field while grantees seek to meet fundraising requirements.

Since the earliest days of the Endowment, we have worked with grantees on an informal basis to help leverage our grants with additional funds. The Board policy to limit overhead expenses that can be claimed by U.S. groups which administer discretionary grants virtually guarantees that they must contribute their own resources to these projects. Furthermore, NED's core grantees all supplement their NED grants primarily with in-kind contributions in the form of unpaid professionals who offer their time and expertise without charge. Finally, other foundations would be unwilling to make contributions to the Endowment for grants over which our Board has the final say, since these foundations would want to fund these programs directly. (Foundation funding is perhaps more likely for the activities of the International Forum for Democratic Studies.)

We are working with our core grantees to assemble a report by June that offers our best estimate of non-public resources contributed last year to the Endowment's overall efforts. We would be happy to share the report with this subcommittee.

Mr. Chairman, we believe it appropriate for the Endowment to seek to supplement its congressional appropriation by leveraging scarce public dollars (though, for the reasons stated above, we have serious doubts about both the desirability and feasibility of mandated requirements). This should not, however, obscure the fact that as an organization that serves a public purpose, the Endowment is a worthy recipient of public funds. We realize that all such recipients must tighten their belts during this period of retrenchment, and you can be certain that the Endowment is committed to remaining cost-effective. We welcome your input toward this end.

## INTERNAL MANAGEMENT

The Endowment's commitment to cost-effectiveness is best reflected in our continuing efforts to implement the managerial changes recommended three years ago by the General Accounting Office. Mr. Chairman, last year I outlined the various reforms we have incorporated into our planning, evaluation, and financial procedures. I can only add that we have refined these procedures and continue to seek means of maximizing staff and board review of each grant at each stage of the process: before it is awarded, during the period of implementation, and following its completion. The annual priorities document, which is guided by the strategic plan, is used extensively in planning and monitoring annual allocations on a country and regional basis.

The evaluation process is built into the design of each program, with evaluation criteria requiring approval by the Board along with the grant itself. In addition, NED continues to commission evaluations carried out by independent experts for countries where there are multiple Endowment-funded projects. For example, in fiscal year 1993 independent evaluations were conducted in Romania, South Africa, and Mexico, copies of which have been shared with the subcommittee. These evaluations have been highly useful in helping the staff and Board make difficult programmatic choices with limited funds, thus enabling NED to carry out its priorities efficiently and effectively.

Last year we reported that the Endowment had stepped up its financial control capabilities through hiring additional administrative staff in the areas of auditing, accounting, and grants management, and developed a detailed strategy for conducting audits in accordance with OMB Circular A-133. As we noted, requiring full compliance audits for both grantees and subrecipients for each grant over \$25,000, as called for in A-133, has increased substantially the amount of staff effort needed to identify audit firms, obtain bids, engage auditors, review their reports, and resolve audits.

I am pleased to report that last month OMB informed USIA's Inspector General that it had approved the Endowment's proposed alternative strategy for complying with A-133 in a more cost-effective manner. In explaining the ruling, OMB's Chief of Financial Standards and Reporting agreed with NED that because a large number of subrecipients are located in developing countries that do not have professional audit organizations and a financial management infrastructure common to developed countries, it was necessary to import, at great expense, auditors who found it difficult to apply the required audit procedures.

The risk-based strategy offered as an alternative will save substantial amounts of taxpayer money without in any way compromising NED's ongoing responsibility to determine that all grantees and subgrantees comply with laws and regulations applicable to the funds they receive. This development is fully consistent with the movement to "reinvent government," and we salute all those in both OMB and USIA who helped us achieve this highly desirable outcome.

## THE BENEFITS OF DEMOCRACY

Mr. Chairman, the post-Cold War world is full of peril: ethnic and regional conflicts, nuclear proliferation, massive outflows of refugees, and the rise of religious fundamentalism are but a few of the problems that create difficult choices for foreign policy decisionmakers. For example, do we insist on human rights protection even if it jeopardizes American jobs? Do we impose sanctions that may hurt those already suffering under despotic regimes? Do we involve American soldiers in risky peacekeeping ventures?

Although each of the problems that besets the post-Cold War world has its own particular set of causes, the absence of democracy is a common element in most if not all of them. And although the agonizing foreign policy questions we face split us along various ideological and partisan fault lines, supporting the development and nourishment of democratic institutions, inasmuch as it offers the best hope of providing long-term solutions to the world's most intractable problems, represents a strategy for the U.S. on which there can be broad agreement.

The Endowment's success can be traced in large measure to the fact that it reflects the broad bipartisan commitment to the success of those fighting to achieve freedom and democracy. That commitment is sustained by the financial and other support provided annually by this subcommittee, and we sincerely hope that we can continue to merit it.

## TV MARTI FUNDING

Senator HOLLINGS. Very good. As you know, we have had some ongoing intermurals relative to Radio Marti and TV Marti, and there has been a vanguard of opposition in the minority because we have had to put this to a vote in both Houses from time to time.

I will never forget when Lech Walesa came back from Radio Free Europe and Liberty, the Voice of America, and other programs. He says, "What is the world, without a Sun?" He wanted to see the people running your program. And the same with Vaclav Havel and the others. While broadcasting has had limited success down in Cuba, it has had success. And it is being strongly opposed by Fidel Castro.

And so, we have had the advisory panel appointed by you that came in with a very salutary report. It strongly supported both Cuban broadcasting programs. And the suggestion for improvement on TV Marti, that we should go to UHF. Now, with that report, when are you going to release the \$2.5 million, so we can proceed to do just that?

Dr. DUFFEY. Well, I understand the Congress will receive my recommendations and make the decision about the release of the \$2.5 million. Those are due to Members of Congress before the first of July.

Senator HOLLINGS. What is the holdup now?

Dr. DUFFEY. Well, I have read it through twice, it is two very large volumes, and I want to be sure when I come back to the Congress that I have clearly addressed the technical questions. I am satisfied that the committee did a very good job. They tried to bring these three recommendations together.

I want to make the strongest set of recommendations I can make. So I am trying to look at the technical studies, and learn more about this. There is some debate about how we should do this, in terms of being able to minimize jamming. We will never completely overcome jamming.

There are a lot of advantages to the proposals made. We can broadcast during the day; we can broadcast on more than one channel. So I find the proposal very attractive.

Senator HOLLINGS. Well, that is what—same here. And I would think any delay just weakens the report. In other words, we are considering with you here on this particular budget right now, and moving on the House side; and if you are talking about July, I hope we are on to something else by July.

Mr. SILVERMAN. Mr. Chairman, the language in the 1994 appropriations act says the \$2.5 million shall be withheld from obligation until after July 1, 1994; and after that date its release is dependent on the Director's report. That was the language.

Senator HOLLINGS. I wonder why they did that; I did not catch that particular proposal. Well, you can ignore that stupidity. [Laughter.]

I mean, just move on. There is no reason for that. That is typical Washington bureaucracy. Here we have got both Houses, both committees, and we are moving forward in everything else.

Dr. DUFFEY. Well, we will have a good strong report.

Senator HOLLINGS. Well, if there is some kind of delay, or if it was a confusing report, I would say maybe we should have some kind of further findings by July or whatever it is; but I do not know what is supposed to happen between now and July.

Dr. DUFFEY. The report has a number of very useful recommendations with respect to all three of the areas I have mentioned: policy, technical aspects, and expenses. And the report has—as Congress intended, put the responsibility back on me, to make a set of recommendations.

I have got a good start with the report; and quite frankly, I may be able to get it before June. I was asked in the House if we could have it before the markup, and it appears as though we are moving toward markup in early June. My report will be here before that time, Mr. Chairman.

#### REORGANIZING FULBRIGHT SCHOLARSHIPS

Senator HOLLINGS. Well, we appreciate it, because we can move forward on it. Now, I understand you are requesting—well, that is another thing I wanted to ask about here: The Fulbright scholarship program.

I understand you are reorganizing or considering changing the Fulbright scholarships?

Dr. DUFFEY. No; for several years there have been questions raised about the Fulbright program, with the intention to try to sharpen the focus of that program. Next year will be the 50th anniversary of that program. The administration, during the transition, recommended a study of the Fulbright program. We are now beginning that process.

I have asked for an analysis from our staff and I am consulting some people from the outside. That is the kind of a discussion paper that we are starting with.

I was in England last week, to talk it over with the Fulbright Commission there. I will be meeting with several other groups, and I have talked with a number of individuals. It is the first step in trying to listen to points of view with respect to that program.

It has grown very substantially, but it has also come to include a whole range of programs. And I think that is good. There are some questions we confront, in terms of the balance and the direction, and how we administer the program most economically in the future.

And, as you know, that program involves other countries; and so I do not think we can ever impose a strict template upon that program that does not respect the major involvement of our binational commissions, in many countries of the world.

#### PROGRAM ENHANCEMENT IN LEBANON

Senator HOLLINGS. I was reading in the morning paper, Mike Kinsley wants to get a volunteer assault force for the United States defense forces, thinking, of course, of Bosnia. I think you are going to preempt him.

You are going to start a volunteer USIA force in Lebanon. You are asking for \$900,000 to open up an office in Lebanon. I would give you \$900,000 to get out of it.

Dr. DUFFEY. Well, we have looked very carefully at this situation; and the decision is not final, Mr. Chairman. But I think whatever happens in the Middle East, as we see this process evolve, Lebanon is going to be a very important place.

An investment is beginning to be made in Lebanon. The journalists, the leaders who have been trained in that country, are going to be a very important part of the future. What we would like to do is to be prepared for extensive consultation.

If this process continues to move, in the direction it is now, by the end of the year we think that it will strengthen our presence there. But if the trend does not continue—

Senator HOLLINGS. You have got to presume that, with that trend, that the terrorist activity has ceased. That might not happen before the end of the year. If you put somebody over into USIA and it becomes effective, that is the first target; and then USIA will be a part of the future involvement, with hostages.

Dr. DUFFEY. Our investment there would be \$121,000 for next year, to add a public affairs officer and two foreign national employees if the conditions improve.

I understand the point you are making but, you know, we have seen, through modest efforts, the situation began to change. And if the signs there are at least moving in the right direction, we want to be ready to proceed. And it is a fairly modest investment.

Of course, security would be of major, major importance there to us, as we think about our plans.

#### RADIO FREE ASIA

Senator HOLLINGS. I see in your budget, Dr. Duffey, \$10 million for Radio Free Asia. And are we likely to see new transmitters in Tinian in the Northern Marianas? Or where are you going to locate the facilities, and how many countries would Radio Free Asia be broadcasting to?

Dr. DUFFEY. Radio Free Asia's broadcasts would be designed primarily—and I will ask Mr. Bruns to supplement this—for broadcasting in North Korea and Burma and China, and several other countries where we feel local news is restricted.

But our first step is taking place this year, after the reauthorization bill is signed: We will start a study of the technical problems and opportunities, where these transmitters can be most effective, what the opportunities may be with present transmitters that VOA uses; and bring back an analysis of exactly what this service would look like.

Joe, do you want to comment on it?

Mr. BRUNS. Yes; Mr. Chairman, Radio Free Asia will broadcast to six countries: Burma, Cambodia, Vietnam, Korea, Laos, and China in nine languages.

We have not yet made any formal approach to any country where we currently have VOA transmitters, about their acceptance of broadcasting Radio Free Asia from those sites. We would do that after the legislation is passed, and as a part of the study process that is envisioned as a part of the legislation.

We would also look at the possibility of leasing facilities for Radio Free Asia in central Asia and elsewhere.

Mr. SILVERMAN. If I may, Mr. Chairman, the facility in Tinian, for which there is a \$16 million request, is envisioned as a backup to the plant that we now have in the Philippines. It was planned well before Radio Free Asia was a fact.

Senator HOLLINGS. Can we not get closer in? What site would be beaming into North Korea?

Mr. BRUNS. We broadcast now to North Korea from the Philippines, and from some transmitters that we lease in Russia. Tinian would improve our transmissions to Korea.

Senator HOLLINGS. Do you have any assessment of the effectiveness of North Korea?

Mr. BRUNS. No; there is really no good way to get in on the ground and try to get an assessment of the quality. But we believe, particularly from the transmitters that we lease in Russia, that we get a good signal to North Korea.

Senator HOLLINGS. But you do not know whether they receive it?

Mr. BRUNS. That is a hard question to answer. We think they do. We think that, because we have medium wave and shortwave signals going in. It is a very, very closed and restricted society, but we think the people do have radios and do listen to us.

Senator HOLLINGS. Is there any indication that we can use Russian transmitters?

Mr. BRUNS. Again, we have made no formal approach. This is for Radio Free Asia, Mr. Chairman?

Senator HOLLINGS. Yes.

Mr. BRUNS. We have made no formal approach to them yet. That would be part of the plan, which will start after the legislation is passed.

Senator HOLLINGS. Well, we will be in conference on this, and they pick, pick, pick at every dollar; and that is what we would have to do, because we are cutting back and cutting back.

To give you a feel for it, this administration has got every kind of reform now taking over. And we have got health reform, which is going to cost billions; and everybody agrees now, it is going to cost, rather than save, money. We have got welfare reform, and it is going to cost billions.

We have got foreign policy reform, whether it is money for South Africa, which I would support, after this election here—that is what we need, to help Russia and those countries in the former Soviet Union. And we have got U.N. peacekeeping coming out of our ears.

We have got maritime reform that will cost billions. And you can go right on down: Environmental reform; crime reform, that is between \$22 billion and \$28 billion; and all of these billions. You look in the back of the President's budget book, and there are 34 different fees; the most recent one, of course, is, some Governor said, "We are going to sue you on immigration." So they are scaring up \$350 million—by what? By getting fees from the Securities and Exchange Commission and the FCC.

Now, that is the information superhighway that they are turning into an information tollroad. [Laughter.]

INSTITUTE FOR REPRESENTATIVE GOVERNMENT AND PEPPER  
SCHOLARSHIP PROGRAM CUTS

I want to defend your budget, Dr. Duffey. We are lucky to have you at USIA. But then, when we come to money, we will get into some horrendous arguments.

You propose to terminate the Institute for Representative Government and the Claude and Mildred Pepper Scholarship Program? Why?

Dr. DUFFEY. Let me ask Barry Fulton to comment on these particular recommendations.

Mr. FULTON. There are a number of earmarked programs that do not compete with other institutions in the United States for funds. We would like them to compete each year, as others do, when their merit qualifies them for an award.

They both have been good programs, and we think they will be competitive; but we think they should compete.

Senator HOLLINGS. And which ones are competitive, as you see it now?

Mr. FULTON. Well, last year we gave about 500 grants to other institutions in the United States, nonprofit organizations and universities; and the several that are earmarked should be among those that compete with the others.

Senator HOLLINGS. What kind of competition do you have, for the several universities, the \$500,000 you are giving out now? What is the competition? You want these to come in and compete. I am trying to get in my mind the competition that is ongoing.

Mr. FULTON. Well, the best example of the competition we have now, probably is: The Office of Citizen Exchanges, which announces, every couple of weeks in the Federal Register, competition for programs that might be in some cases very narrow. It might, as an example, be a competition for outside institutions to propose to us a means to educate and train judges in Nigeria.

Or it might be very broad. We might say, as we do on some occasions, "We are trying to expand our exchanges in sub-Saharan Africa, and we would like your proposals of how we could do this expansion, within a certain budget."

When we announce these competitions, sometimes we have two or three organizations come in. One time, we had 135 organizations come in. And these come from a range of universities across the United States and nonprofit institutions.

Senator HOLLINGS. You have peer review?

Mr. FULTON. We have peer review. After the peer review, it goes to the Associate Director for Educational and Cultural Affairs; and then it comes up to the congressional committees, and sits here for 2 weeks before we award the grant.

Senator HOLLINGS. I think it was Bill Gray, the former Congressman, who wrote an article just the day before yesterday, about all those folks who have got the peers, and we get the review; down there in our area or, in his black colleges, they get less than 1 percent of university funding, because they don't have any peers.

And the typical, habitual ones that get it, buy yachts with it, and flowers, and give cocktail parties; and sit with great dignity, be-

cause they are peer-reviewed. I do not know any better peer than Claude Pepper. He was a leader.

And this endeavor was here—that has been put down—because we peers who are elected by the public, and appointed by no one, have reviewed. That is how it gets in. It is very competitive over here; far more competitive than advertising in the Federal Register. Way more competitive.

#### NORTH/SOUTH CENTER

Let us see. The North/South Center. Is that another one of those peer review programs? You have reduced that North/South Center, and they come up from the university there; and the former Ambassador down there in Panama—let us see—he will be in town, with all those folks.

Tell us about the North/South Center.

Dr. DUFFEY. This comes back to the question you dealt with earlier, Mr. Chairman; about what is happening to resources and budgets, and the difficult decisions that have to be made. That is a very important center. It is new; it is just getting started. It will certainly be a strong contender for special projects and grants, from a whole range of Government agencies.

In trying to make a difficult set of decisions at this point, this one was not recommended for the line item that it has received in recent years. It is not a reflection of judgment about the center. I wish we could fund half a dozen major centers of this kind; this is one of the leaders.

Senator HOLLINGS. Do you find it inferior to the East-West?

Dr. DUFFEY. No; not at all. It is not as established; it has not had the opportunity. It is a fledgling, but it is a very important center.

I think we may need to find new ways to approach this funding. Perhaps with matching funds; by challenging the local communities and the trustees. In all of these programs, where there are areas where there might be resources that would come forth, challenge the members of business and industry who have a major stake.

But we simply had to make some decisions, with limited resources, about where our budget is being reduced each of the next few years, in order to meet the deficit reduction targets.

#### NED PROGRAMS IN MEXICO

Senator HOLLINGS. Very good. Now, Mr. Gershman, on the activity in Mexico to create democracy. I wanted to do that, and then get to Congressman Mica here in just a second.

But what are we doing for democracy? What is NED doing in Mexico? I do not know. We have got Senators on this subcommittee that are interested in a different light.

I resisted because, having the problem of budget hearing we just did not think that putting up \$30 million for the Republican Party and the Democratic Party and the AFL and the chamber of commerce, and let them all go down in the cold winter months to the Virgin Islands and think—we did not see much there. And in fact, our audit showed that there was tremendous waste.

I changed my mind when we got into Europe, with the fall of the Berlin Wall, NED was buying those printing presses out in Indiana to send to Czechoslovakia and Hungary, to post free elections, real-

ly doing some things that I thought well-conceived and worked extremely well.

But now, what are you doing in Mexico with the Endowment for the Democracies?

Mr. GERSHMAN. Well, Mr. Chairman, as you know, the election is coming up on August 21, and we have been working with a broad range of civic organizations in Mexico, trying to make sure these are going to be clean elections; which they have not had in Mexico.

In fact, today they are announcing a civic alliance, which will consist of hundreds of organizations, lead organizations or groups like the Council for Democracy, the Citizens Movement for Democracy, and other organizations; groups we have been helping for the past 2 years.

And in March, representatives of these organizations came up here, and we had 2 days of meetings where they laid out their plans for monitoring the election; which will include voter education. They are going to do poll watcher training. They are trying to have a comprehensive system of monitoring in all 100 of the largest election districts in Mexico; and then selectively, because there are some 1,700 other districts.

But they need a lot of help. They are announcing an organization today, and we want to help them. We are also able to provide them with computers. They have computers for their national headquarters; but for the regional monitoring, they need computers. And, through a grantee of ours that actually get donations of used computers, we are able to supply them with donated computers, which they can use to strengthen their communications network for this monitoring process.

And I think this is really unprecedented, to have Mexican and United States organizations cooperating for democracy in this way. They would have not approached us a couple of years ago; it would have been too politically sensitive. The fact that they are doing so, I think, is significant.

Senator HOLLINGS. Well, the main thing there is to check on the credibility and reliability of those organizations; specifically, that business crowd. Do not give me a business entity down there, because they are in cahoots, and we know it.

And there are various examples: Volkswagen. They had 300 and some on strike; and so they fired 14,000 and rehired 13,700. And the troops gave a bum's rush to the 300; and out they went.

Similarly, with the coathanger outfit out of California, in Santa Ana, the plastic coathangers. In January of last year, they went down to—they had a big rain in Tijuana, and it washed down all these dirt hovels in alleys that they live in. It is pure squalor.

I mean, if you want to see a monument to the concern that American business has—it is a dirty shame, because here the plant is nice and the grass is green, and the flag is flying. Inside the plant, they are fine. But 10 feet away, there is no water and no plumbing in their toilets, and no electricity to speak of; and everything else like that. And they live in filth.

And so, when that rain occurred, they even had to close down at Coronado and San Diego. They lost a day, which under their rules, would—they were docked 3 additional days. That made them upset.

And then in February, one of the workers lost his eye. They did not have any safety; they do not have any OSHA down there.

And then in May, one of the favorite supervisors, a young lady, was expecting; and she went to the other supervisor and said, "I am going to have to leave this afternoon; I am sick." And they said, "No; you have got to stay." And she miscarried.

And that is when they said, "Now, this is enough. And we are going up to Los Angeles, and we are going to get a lawyer." And so, they got the lawyer to get and organize a union. And you know what they found out?

They did not have a union for 3 years; they had never seen, but you signed the papers up in Los Angeles, and you supposedly got the union. The company pays the so-called representative under the contract up in Los Angeles. The fellow there had never been in the plant. And, since they had not had a union for 3 years, some 13 of them were fired because they were trying to organize a union.

That is why I say, "Look out for these business people." Because they want to continue, business is business, and profits are profits; and we want the PRI. You are not going to get any objective viewing of the election from those people.

They tell me the chamber of commerce down there wants to do it. I am running in the other direction. It has just been what the famous writer, Vargas, called a perfect dictatorship down there, the PRI. So they know how to do it. I mean, they are very clever and what have you. If you can get good objective observers—has the Government agreed to have these observers?

Mr. GERSHMAN. These are internal organizations, Mr. Chairman.

Senator HOLLINGS. You say, internal. That frightens me. There is nothing internal. It is all PRI.

Mr. GERSHMAN. I think you have had a fairly closed system down there; and as U.S. organizations, we have not had much access because of the political sensitivity. But these are Mexican groups—I was very impressed by the dedication of these groups, by their sincerity, by their professionalism, and by their independence.

And I think that these groups are really challenging the system; and they are committed now to doing everything they can to monitor the elections, and to ensure there is no fraud; and if there is fraud, they are going to be able to identify it.

All we can do is help them; help them with their needs; help them with equipment; help them with training people who will be doing this monitoring.

Senator HOLLINGS. Well, you know, in monitoring elections previously, the computer broke down.

Mr. GERSHMAN. Well, they can do a quick count now during the election, by interviewing people as they leave. So this has been done in many other countries; and if they are lying about it, people will know.

#### RADIO FREE EUROPE/RADIO LIBERTY

Senator HOLLINGS. Very good, sir. Chairman Mica, there have been a number of articles about the high level of benefits from Radio Free Europe and Radio Liberty. For example, the National Journal claims that the former President of the radios was paid

\$300,000 a year, and during his 8 years spent \$286,000 just to decorate his residence.

And we are looking for money. What kind of extravagance is that?

Mr. MICA. Well, first let me say, Mr. Chairman, that some of that article, we think, was correct; and some of it is certainly in dispute.

Let me start out by saying this: I have only been Chairman for 1 year. We are a part-time citizen committee, and we have RFE/RL management here who can answer specific questions.

The President's contract was brought to my attention immediately upon becoming Chairman. I immediately rewrote the contract and, I think, corrected anything in the contract that we thought was inappropriate or not consistent with current law.

I asked the question you have just asked me: What about payment, benefits, and so on? Some of the articles indicate some payments in benefits that are very similar to anyone else in a foreign service post. However, I understand the Hay study, a private management group, was convened maybe 8 years ago in the mid-eighties, to look at pay and various perks for executives of the radio.

At that time, it was considered appropriate, and the Hay study was to look at what executives are paid in the private sector, who represent America in the German market. So everything was being compared to other private executives of this level.

In addition to that, particularly at the time of the cold war, the president of the radios was considered much like an emissary, a diplomat, to not just one nation but to dozens of nations, because the radios were broadcasting in over 20 languages.

And the bottom line is—I have recognized this, the Board has recognized this—that political times have changed; that this organization cannot any longer be compared to private sector, that it must be compared to governmental employees at equal positions and rank. And we are making those adjustments.

And we have set forth a study of comparability of executive compensation. As part of my opening statement I was going to mention, we are reducing the radios from 1,600 people down to less than 600. The budget is going from over \$200 million, to a capped budget beyond the next fiscal year of \$75 million.

It will require not only corrections and adjustments in that area, but in a whole host of areas. And so we have just started these changes. But they are, if I may say, being implemented.

In the case of our new interim president, Dr. Ross Johnson—who is here—his arrangement bears little resemblance to the contracts that we had 6 and 8 years ago.

Senator HOLLINGS. I want to include your opening statement in its entirety. Do you want to touch on it?

Mr. MICA. If I may, Mr. Chairman. Knowing the process here, I will not read the entire statement. But I appreciate your putting it in the record. There are just a few points that I would like to make.

First, as I indicated, I have with me the interim president of the radios, Dr. Ross Johnson, and our vice president for finance for Radio Free Europe/Radio Liberty, Michael Marchetti.

When I was asked to take this job by the President last year, there were a couple of requirements. First, we hoped we could save surrogate broadcasting. The budget cutters and a number of folks were talking about eliminating any broadcasting. The second is, you must save money.

#### PERSONNEL TERMINATIONS

In that context, I accepted the position; and I must say, although it is an honor to be here today, it is not pleasant. We are terminating large numbers of people who have spent their entire lives since World War II, defending democracy and broadcasting about democratic institutions a message that we think ultimately led to the fall of the Berlin Wall and changes in the former Soviet Union.

As I indicated, the consolidation is very difficult. We have been giving out termination notices, and another round will have to be given very quickly.

Suffice it to say that we broadcast in 22 languages now; 790 hours weekly. I am personally—and although we are not a full-time board like my colleagues on my right and left here; we are a citizen board and we are fully committed to what the radios do.

I clipped an interesting article out of the newspaper the other day. We get inundated with studies from the radios, studies from USIA and from the Government, on what is going on in the Soviet Union. And I thought this little clip here just drove it home; and that you, as an elected official, would understand this as much as anyone.

#### SURVEY ON COMMUNISM

The question was simply asked to the Russian people: Are things better now, without communism? Or, were they better before, with communism?

This was just done by the Gallup organization in Russia, I understand, a few weeks ago.

Fifty-nine percent of the Russian public said things were better under communism. There is a message in there for all of us. A Yeltsin or anyone else who is pro-democracy cannot stay in power very long; and the public that elects him, 59 percent, say that things were better under communism.

A similar poll in other countries revealed these numbers: Hungary, 53 percent; Moldavia, 65 percent; Ukraine, 59 percent. I guess that little poll just drives home the feeling I have had, as Chairman of the Board, that the need for broadcasting continues.

#### CONSOLIDATION

We need to do everything we can, to make it efficient, effective, and live within the \$75 million cap, if that is the mandate of the administration and Congress. We must do everything we can, to have an efficient broadcast operation to face what I consider not a battle on the battlefields yet, except in one or two of these countries—but a battle for the minds and hearts of these folks; and give them the kind of information that they need to, hopefully, make decisions on behalf of democracy.

The last point I would make—and you are more aware of than I, having only had the honor to be in Congress 10 years—I saw the turf battles between VOA and Radio Free Europe, Radio Liberty, USIA, and they tell me they have gone on for decades. The new consolidation, if it works, and I hope it will, for the first time brings everybody to a common purpose.

They are all under one budget, and this will be my first and last appearance in any event, before this committee—my first and last—because the BIB Board goes out of existence.

Senator HOLLINGS. When is that?

Mr. MICA. The consolidation legislation should be passed and signed in the next week or two. And it calls for us to go out of existence, either next September or when the new Board is appointed; whichever is sooner.

Senator HOLLINGS. That will all come under Dr. Duffey?

Dr. DUFFEY. There is quite a different structure. I will actually be losing authority.

Mr. MICA. It all will be a part of USIA, but the Board would be the firewall in the operations, with Dr. Duffey as an ex-officio member of the nine-member Board; much like the BIB Board, which would oversee the disbursal of funds to Radio Free Europe, Radio Liberty, Radio Marti, Radio Free Asia, and Voice of America. All would be combined under an entity of that Board, and this Board would then make recommendations for disbursal and funding under that.

Senator HOLLINGS. Have you all gotten together on an operating budget for the new endeavor?

#### PREPARED STATEMENT OF DANIEL MICA

Dr. DUFFEY. The legislation calls for us to take the first 120 days, and come back with a consolidation plan. So Mr. Mica and I have a good start on what that would look like; but the formal process will begin when the legislation is signed.

[The statement follows:]

#### STATEMENT OF DANIEL A. MICA

It is a pleasure and an honor to be here today in my capacity as Chairman of the Board for International Broadcasting to discuss the 1995 appropriation to the Board for the operating and downsizing costs of Radio Free Europe/Radio Liberty, Inc. Accompanying me today is A. Ross Johnson, Acting President of Radio Free Europe/Radio Liberty Inc.

Mr. Chairman, the challenges of the past year, and those still ahead, are among the most historic, exciting and painful ever faced by Radio Free Europe/Radio Liberty. As we actively pursue the President's plan to consolidate international broadcasting under a Broadcasting Board of Governors within USIA, we are endeavoring to reinvent the Radios for future operations in an era of severely shrinking resources.

Currently Radio Free Europe/Radio Liberty provides approximately 790 hours weekly of surrogate and alternative programming in 22 languages to the peoples of Eastern Europe and the former Soviet Union. RFE/RL's surrogate programming contains a mixture of hard news, analysis, and features on various political, social, economic, and cultural themes, in a format that resembles in some ways National Public Radio in this country. Sixty to seventy percent of an average day's broadcasts remains focused on domestic news and analysis of the countries to which it broadcasts.

Through the downsizing that has begun over the last several months, many of the valuable broadcast programs of the Radios have been maintained. In addition, new broadcasts to the former Yugoslavia were inaugurated in January, providing news

and analysis of regional issues to Serbs, Croats, and Bosnians and projecting these views across these war-torn borders. Coverage of local and regional issues, the very mission of RFE/RL, is being conducted by networks of correspondents and freelancers throughout the broadcast region. Many of our programs are carried on local AM and FM frequencies with decreasing dependence on shortwave transmission.

Mr. Chairman, during the last year the Board has been challenged to develop a specific plan (within the context of the overall Consolidation plan) to reinvent RFE/RL within budget goals in a manner that does not ignore the forty year history of success of these Radios. RFE/RL is a living, producing asset and represents a major U.S. government investment in an undeniably effective enterprise.

In order to meet the budget and program goals inherent in the Consolidation plan, the Board began the downsizing last fall and so informed this committee through the reprogramming process. Thus far we have shutdown Radio Free Afghanistan, the Hungarian Broadcast Division, the Broadcast Analysis Division, the New York Programming Center, and set the Czech and Polish Broadcast Divisions on the path to independence from U.S. Government funding by the end of fiscal year 1995. In addition, many support positions are being eliminated as we attempt to reduce from over 1,600 to less than 600 positions by the end of fiscal year 1995. The Radios' operational budget is decreasing accordingly, from \$218 million last year to \$177 million this year, projected for \$152 million in fiscal year 1995 and \$75 million in fiscal year 1996. To reach that \$75 million budget target, we will incur one-time costs of downsizing in fiscal year 1995 of approximately \$102 million.

Because RFE/RL is headquartered in Munich, Germany, we must operate within the German labor law environment, where significant personnel reductions are accompanied by requirements to pay specific severance costs, social plan costs, pension liabilities and other retirement costs, and litigation costs. In addition to the required payments to terminated individuals, RFE/RL must replace its current pension plans and other benefit programs with less costly contributory plans in order to reach the \$75 million cap in fiscal year 1996. Also, premature termination of leases and other contractual obligations contributes to the one-time costs of downsizing. There are no legal alternatives to the funding of these one-time personnel related costs of termination.

Overall, Mr. Chairman, we are requesting \$256.7 million for fiscal year 1995, which includes a one-time net increase of \$46.7 million. We are funding over half of the total downsizing and consolidation costs from within our \$210 million base for fiscal year 1995 because the Board took actions to begin the two-year downsizing plan in October, 1993, embodied in the reprogramming agreement with this and other committees. In fiscal year 1995 we need the \$46.7 million increase to complete the process in a legal and timely manner and to enable RFE/RL to reach the fiscal year 1996 \$75 million cap, as directed by the broadcasting consolidation legislation.

This is the last time that this committee will see an appropriation request from the Board for International Broadcasting as this oversight Board will be abolished by the end of fiscal year 1995, in accordance with the pending broadcasting consolidation legislation. Beginning in fiscal year 1996, a smaller but effective Radio Free Europe/Radio Liberty will receive its operational grants from a new oversight Broadcasting Board of Governors within USIA. I want to take this opportunity on behalf of the Board to thank this committee for the many years of funding support for the Board's activities and for the outstanding broadcasts of Radio Free Europe/Radio Liberty. I will be happy to answer any questions.

Senator HOLLINGS. Well, very good. The question has been raised, under the German system, that the pay is far more luxurious than anything we have given here; and we will look at that in the budget, too. I know that comes up.

Mr. MICA. If I could comment on that, Senator? There was a group of German workers here in town several weeks ago; and I am pleased that you make that comment.

There are some who believe that, rather than go to the radios and get what they can through the appropriate negotiations that they should go around the radios to Congress; and I have tried to tell them that this will not happen, that they must work through the radios. That is the correct approach.

But I think your comment will be well placed in the record; that these benefits are, indeed, more generous. And we will, obviously, pay what we are required to pay by the law; but to think that we

could get more money in this atmosphere in Washington, we have tried to explain, is folly.

#### ADDITIONAL COMMITTEE QUESTIONS

Senator HOLLINGS. Very good. Dr. Duffey, we thank you. And thank you, Chairman Mica. We appreciate it very much.

[The following questions were not asked at the hearing, but were submitted to the agencies for response subsequent to the hearing:]

#### U.S. INFORMATION AGENCY

##### QUESTIONS SUBMITTED BY SENATOR ERNEST F. HOLLINGS

##### POST CLOSINGS

*Question.* Dr. Duffey, USIA closed several overseas posts in the past few years. Are you considering additional post closures in fiscal years 1994 and 1995? Which posts are likely candidates?

*Answer.* In fiscal year 1994, we have closed two branch posts—Dhahran, Saudi Arabia and Belo Horizonte, Brazil. We also plan to close the branch post in Porto Alegre, Brazil in 1995.

*Question.* Last year we criticized the State Department for interfering with USIA's actions to save funding by closing posts. Is the State Department objecting to any USIA post closures?

*Answer.* The former U.S. Ambassador to Brazil initially objected to our original plan to close the USIS branch post in Belo Horizonte in 1993, but ultimately gave his approval. We have not begun formal discussions with the new Ambassador or State Department headquarters concerning the planned closing of the USIS branch post in Porto Alegre, Brazil, in 1995.

Generally, U.S. Ambassadors desire the whole range of USG activities at their Missions and would usually oppose the closing of a USIS facility. We too believe that it is highly desirable for USIA to operate a post wherever the Department has an Embassy or Consulate. But continuing overall Federal budgetary constraints have forced USIA to make many difficult resource choices, including the elimination or downsizing of some overseas posts.

##### FULBRIGHT PROGRAM

*Question.* Dr. Duffey, we have always thought that the Fulbright Program is the "flagship" of Federal exchange programs. We have heard that you are evaluating some significant changes in the way the Program operates and is run by USIA.

Could you provide some details and are you considering significant changes in the Program?

*Answer.* The Fulbright Program, which has long been the pillar of USIA's exchange activities, is approaching its 50th year. In light of the many changes the program and the world have undergone since the program's inception, and in this environment of budget restraints and "reinventing" government, we thought it important to assess and evaluate the program overall.

A six member USIA committee spent six months examining the Fulbright Program and its future and prepared a preliminary draft report that reaffirmed the basic tenets of the program. A second draft of the Committee's report suggests several modifications in program procedures and administration. This report is being circulated for comment to all organizations involved with the Fulbright Program. Any changes to the program will come only after thorough discussion with all concerned parties.

##### NORTH/SOUTH CENTER

*Question.* Three years ago, the Foreign Operations Subcommittee created an earmark for the University of Miami called the "North/South Center," and the Bush administration started putting requests in our Commerce, Justice and State budget.

Could you provide the Administration's rationale for this reduction?

Dr. Duffey, how many other universities in the U.S. have solid Latin American Studies programs? If we could find the money, what would you think about us putting in a competitive program for "North-South" studies?

*Answer.* Continuing Administration efforts to reduce the overall Federal deficit required reductions in most USIA programs, including elimination of funding for the

noncompetitive grant to the North/South Center. Other contributing factors include the following: the Center had previously been carrying out some of its USIA-funded activities without our support, although at a lower level; other institutions independently undertake activities similar to those USIA supports at the Center; and some of the Center's activities would probably be competitive for other Federal sources of support.

Regarding other strong Latin American studies programs in the U.S., the Department of Education's Center for International Education periodically supports the creation of National Resource Centers (NRC's) in the study of each world area and in international studies. The current list specifies 14 Latin American NRC's: Michigan State, Tulane, UCLA, the University of Texas, the University of Wisconsin system, Vanderbilt University, the joint program of the University of Connecticut/Brown University/University of Massachusetts, and the following university pairs: Columbia/New York University, San Diego State/University of California-San Diego, Stanford/University of California-Berkeley, University of Florida/Florida International University, University of Illinois/University of Chicago, University of New Mexico/New Mexico State, University of North Carolina/Duke, and University of Pittsburgh/Cornell.

If funding were made available, USIA could manage a competition for support of a "North-South" academic exchange through its regular grant-making mechanism. We would expect that the North/South Center and other institutions not designated as NRC's would also compete for such funds.

#### CENTRAL AMERICAN PROGRAM OF UNDERGRADUATE SCHOLARSHIPS

*Question.* Approximately ten years ago I was active in an effort to enhance relations with Central America. As part of that effort, I helped establish the "CAMPUS" exchange program, or Central American Program of Undergraduate Scholarships.

As I understand, more than 400 students have been through this program, and a new group of 71 students began their program this past January at six U.S. institutions. Funding for 1995 would be \$4.3 million for CAMPUS, the same as 1994.

What has USIA's experience been with CAMPUS? Do you consider it a success?

*Answer.* By the end of June of this year, six classes of CAMPUS grantees, a combined total of 529 alumni, will have completed their U.S. academic programs. The vast majority of these students have been reintegrated into their home countries. An additional 143 will participate in the CAMPUS Program from June-December, 1994.

The Program has been very successful and, in many respects, has exceeded the expectations of even its most enthusiastic supporters. First, it has attracted excellent pools of high-quality, highly motivated candidates from the non-elite sectors of all seven Central American nations. The students have successfully completed intensive English language instruction within the program's time limits, and have performed at academic levels far above the norm for American and other foreign undergraduates. Over 95 percent of the students complete their undergraduate degrees within the 30-month grant period, and over half graduate with honors.

CAMPUS was based on the idea of extending the participants' U.S. experience beyond the pursuit of a college degree. In this regard, reports from the host universities and colleges indicate that the program succeeds in many other important ways. Many CAMPUS students become college and community leaders. Through cultural events, participation in clubs and associations (some of which they have founded), visits to schools and civic organizations, and by interviews and articles in the mass media, the students have shared the culture and society of Central America with many American citizens. Many CAMPUS students have held campus-wide elected offices, represented their schools in intercollegiate events and athletic competitions, and travelled throughout the U.S. to participate in congresses, internships, and field experiences.

#### FACILITIES FOR RADIO FREE ASIA

*Question.* The 1994 Foreign Relations Authorization Act, due to pass the Congress this week, includes an authorization for a "Radio Free Asia," similar to Radio Free Europe and Radio Liberty. The authorization limits operational expenditures for Radio Free Asia to \$22 million for any fiscal year. Radio Free Asia will broadcast to China and Southeast Asia, including Tibet. How will this radio system operate? Will it use USIA radio facilities?

*Answer.* The recently-enacted United States International Broadcasting Act of 1994 (Public Law 103-236) specifies that a plan outlining the features of this new organization shall be submitted to Congress no later than 90 days after all members

of the Broadcasting Board of Governors have been confirmed. The issues of Radio Free Asia's operations and broadcast facilities will be addressed in the context of this overall plan for Radio Free Asia.

#### NEW RELAY FACILITIES PLANNED FOR RFA

*Question.* Does USIA or Radio Free Asia contemplate building a new broadcasting station? If so, where, and how much would such a station cost?

*Answer.* There are no current plans for a new broadcasting station. The President's budget submission for 1995 does not contain funding in any fiscal year for such a project.

Section 309(d)(4)(5) of the recently-enacted United States International Broadcasting Act of 1994 (Public Law 103-236—the Act) contains funding limitations for Radio Free Asia—\$22 million for annual operating costs and \$8 million for one-time capital costs.

Section 309(c) of the Act requires the Broadcasting Board of Governors to submit a detailed plan that contains, among other things, “\* \* \* a description of the manner in which Radio Free Asia would meet the funding requirements in Section (d)(4)” and “\* \* \* how it proposes to meet the technical requirements for carrying out its responsibilities under this section.” Transmission requirements will be addressed in the context of this plan.

#### VOA REDUCTIONS LINKED TO RADIO FREE ASIA

*Question.* Will USIA's own international broadcasting arm, the Voice of America, reduce its own broadcasts to Asia as a result of the introduction of Radio Free Asia? If not, why not?

*Answer.* The Voice of America currently broadcasts a total of twenty-three and one-half hours daily in 9 languages to East Asia. These are: Mandarin Chinese, 10 hours daily; Cantonese, 1 hour daily; Indonesian, two and one-half hours daily; Vietnamese, two and one-half hours daily; Khmer, 2 hours daily; Burmese, one and one-half hours daily; Korean, one and one-half hours daily; Lao, one hour daily; and Tibetan, one and one-half hours daily. In addition to language programming, VOA also broadcasts 16 hours in English per day worldwide, 11 hours specifically to the East Asia and Pacific area.

The extent to which this broadcasting would be displaced by Radio Free Asia broadcasting has not yet been determined. The recently-enacted United States International Broadcasting Act of 1994 (Public Law 103-236) provides that a plan for Radio Free Asia shall be submitted by the Broadcasting Board of Governors through the Director of the United States Information Agency to the Congress. This plan is due not later than 90 days after the date on which all members of the newly-created Board are confirmed (Sec. 309(c)(2)).

The legislation also requires the Board to notify the appropriate Congressional committees before undertaking any activities that would “\* \* \* significantly reduce the broadcasting activities of the Voice of America in Asia or any other region \* \* \*”, and requires the Chairman of the Board to “\* \* \* consult with such committees on the impact of any such reduction in Voice of America broadcasting activities” (Sec. 309(h)).

It should be noted that targeted programming, which carries the same type of information as “home service” broadcasting, is already being done by the VOA Chinese branch in the form of a daily program called “China Focus,” which discusses events in China. The hourly China Branch newscasts also emphasize local news, news which would not be carried in the domestic media. Funding for this successful VOA program—\$1.8 million—is included in the overall \$10 million requested for Radio Free Asia, scheduled to be established as an independent grantee. Under that scenario, VOA's targeted Chinese program would have to be transferred to the new entity or modified in some other way—funding would not be available to support China Focus within VOA.

#### BOARD FOR INTERNATIONAL BROADCASTING

##### QUESTIONS SUBMITTED BY SENATOR ERNEST F. HOLLINGS

#### RADIO TERMINATION COSTS

*Question.* Chairman Mica, your testimony notes the high cost of paying requirements—such as the “social plan” and “pension liabilities” under German Labor laws. How much is the cost per employee?

*Answer.* The fiscal year 1994 and fiscal year 1995 budget plan provides a total of \$15,150,000 for a Social Plan for approximately 650 terminated employees in Ger-

many. RFE/RL has proposed a Social Plan for the first group of employees terminated in fiscal year 1994 of \$5 million. This proposal contains:

- Contractual severance increased by 20 percent.
- One time payments to employees who are not yet vested in company non-contributory pension plans.
- A commitment on the part of the Management of RFE/RL to continue to pay for school tuition of the children of affected employees until the end of the current school year.
- A moving allowance for employees who are not entitled to company paid final return.
- A fund to finance retraining measures for affected employees.
- A hardship fund to be distributed by Management and the Works Council in cases of individuals hardship.

The budget request for fiscal year 1995 includes \$10.15 million for a social plan for the remaining employees who will be terminated. The final content of the Social Plan will be determined by binding arbitration.

The fiscal year 1995 Budget includes \$38.9 million to fully fund the liabilities and close out the RFE/RL, Inc. non-contributory pension plans. Thereafter, in the downsized and restructured operation, it will be possible to introduce less costly, contributory pension plans.

Included in the fiscal year 1994 and fiscal year 1995 budgets is a total of \$62.2 million for termination payments in accordance with company policy and union agreements. The termination costs include: severance, based on years of service; unused vacation pay; and final return transportation of goods and people. The average termination pay, is \$55,441 for employees stationed in Germany and \$45,618 for employees in the United States.

*Question.* How does that compare with severance pay of terminating an American employee?

*Answer.* According to OPM data, terminating an average USG employee with 15 years of service at 44 years of age earning a salary of \$47,000 would cost approximately \$31,200.

#### TERMINATION OF THE BOARD FOR INTERNATIONAL BROADCASTING

*Question.* Chairman Mica, as I understand the Radio consolidation plan, the Board for International Broadcasting will cease to exist and a reduced Radio Free Europe and Radio Liberty will come under a new Broadcasting Board of Governors in USIA.

What is the schedule for this transition. When will the Board for International Broadcasting cease to exist?

*Answer.* The authorization bill, signed into law on April 30, calls for the repeal of the BIB Act effective September 30, 1995, or the date on which all members of the new Board are confirmed, whichever is earlier.

*Question.* Mr. Mica, what will be the operating budget for this new broadcasting Board of Governors? Could you explain the Board's functions?

*Answer.* The functions of the Board of Governors, as stipulated in the authorization, are:

- To direct and supervise all broadcasting activities conducted pursuant to this title, the Radio Broadcasting to Cuba Act, and the Television Broadcasting to Cuba Act.
- To review and evaluate the mission and operation of, and to assess the quality, effectiveness, and professional integrity of all such activities within the context of the broad foreign policy objectives of the United States.
- To ensure that United States international broadcasting is conducted in accordance with the standards and principles contained in section 303.
- To review, evaluate, and determine, at least annually, the addition or deletion of language services.
- To make and supervise grants for broadcasting and related activities.
- To allocate funds appropriated for international broadcasting activities among the various elements of the International Broadcasting Bureau and grantees.
- To review engineering activities.
- To undertake such studies as may be necessary to identify areas in which broadcasting activities under its authority could be made more efficient and economical.
- To submit to the President and the Congress, through the Director of the United States Information Agency, an annual report which summarizes and evaluates activities under this title, the Radio Broadcasting to Cuba Act, and the Television Broadcasting to Cuba Act.

- To the extent considered necessary to carry out the functions of the Board, procure supplies, services, and other personal property.
- To appoint such staff personnel for the Board as the Board may determine to be necessary.
- To obligate and expand, for official reception and representation expenses, such amount as may be made available through appropriations.
- To make available in the annual report required by paragraph (9) information on funds expended on administrative and managerial services by the Bureau and by grantees and the steps the Board has taken to reduce unnecessary overhead costs for each of the broadcasting services.
- The Board may provide for the use of United States Government transmitter capacity for relay to Radio Free Asia.

The USIA Director is a statutory member of the BBG. The operating budget will be determined in the fiscal year 1996 budget review. No funds for the BBG are requested in fiscal year 1995; should the BBG be appointed and operational before the end of fiscal year 1995, the BIB would be abolished and any remaining resources transferred to USIA.

#### RFE/RL MOVE TO PRAGUE

**Question.** Chairman Mica, the Washington Post reported that the Board for International Broadcasting had voted to move from Munich, Germany, to Prague, in the Czech Republic.

How much will that move cost?

**Answer.** The budget submission, as presented, does not include a move to Prague. The Arthur Andersen Study on Relocation Options, which is in the final stage of completion, will be provided to the Committee as soon as it becomes available. The report will outline the costs associated with a move to Prague and answer related questions on relocation.

**Question.** How is this consistent with the President's plan and Foreign Relations Authorization to reduce the Radios?

**Answer.** The Foreign Relations Authorization recognizes that relocation is being considered by the BIB and recommends that any relocation decision be made by the BBG unless, prior to the confirmation of all members of the BBG, the President "certifies that significant national interest requires that such relocation determination be made before the confirmation of all members of the Board, and the President submits to the Comptroller General of the United States and the appropriate congressional committees a detailed plan for such relocation, including cost estimates and any and all fiscal data, audits, business plans, and other documents which justify such relocation."

**Question.** Won't you have to lay-off even more employees who come under German Labor Laws?

**Answer.** RFE/RL faces extraordinary layoffs whether it stays in Munich or moves to Prague. The Arthur Anderson Report when it is finished is expected to address this question.

#### LONG-TERM PHASE OUT—BUDGET REALITIES

**Question.** Chairman Mica, as I understand your budget—you are requesting an overall increase of \$46.7 million—so your budget can go from its current level of \$210 million down to \$75 million in 1996. The problem is, I don't think it is likely that this subcommittee is going to be given an allocation to fund that increase.

Do you have a Plan B for phasing down more gradually? What happens if the Radios get a freeze in fiscal year 1995?

**Answer.** If RFE/RL is to operate within a fiscal year 1996 ceiling of \$75 million, down from \$218.1 million in fiscal year 1993, a major phase down must take place during fiscal year 1994 and fiscal year 1995. The downsizing and restructuring of the organization requires one-time costs during this two year period of \$133 million for: termination of employees, social plan for employees in Germany, payment of pension liabilities, lease cancellations, potential litigation, liquidation of severance liabilities for remaining employees, and payments towards post retirement medical insurance. Unless these programs are fully funded by the end of fiscal year 1995, RFE/RL will not be able to implement new personnel policies and will need additional funding in future years to cover these obligations.

If the fiscal year 1995 budget is frozen at the fiscal year 1994 level, RFE/RL will be forced to defer payments into the pension plans, payments for the post retirement health insurance program, and potential litigation costs, significantly increasing fiscal year 1996 and fiscal year 1997 costs and foregoing savings assumed in the Foreign Relations Authorization Act.

## QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

## BOARD FOR INTERNATIONAL BROADCASTING

*Question.* The Board for International Broadcasting has decided to attempt to move the operational headquarters of Radio Free Europe and Radio Liberty from Munich, Germany, to Prague in the Czech Republic.

Even before this decision was made, the former President of Radio Free Europe/Radio Liberty resigned in protest. Apparently he believes, as do others, that such a move is not in the best interests of the employees of the Radios. Many of them will not move to Prague, and you will lose years of experience.

In addition, in an era when the Radios are being substantially reduced in terms of both personnel and budget, it seems odd that such a dramatic shift would be made—especially if it ends up costing a great deal of money.

Why was this decision made?

*Answer.* By October 1995, RFE/RL, Inc. must reduce its non-engineering operating costs and staffing by approximately half, to achieve a \$75 million budget target. While some staff will leave voluntarily, it is likely that RFE/RL will be obliged to lay off more than 500 people (excluding the RFE/RL Research Institute).

RFE/RL Management and the Board believe that carrying out such a drastic downsizing in Germany, where workforce terminations must operate under rules of "social selection," based on such factors as seniority and dependent status rather than professional qualifications, precludes a rational reduction of broadcast and support staff—one that preserves the essential skills, experience, and functional positions required to maintain high-quality programming.

In addition, the Board believes, based on the preliminary Arthur Andersen report, that operating costs in Germany make it unlikely that RFE/RL can meet a fiscal year 1996 budget target of \$75 million without the closure of additional broadcast services than currently contemplated. The Board believes, on the other hand, that operating in Prague, at the invitation of the Government of the Czech Republic, could substantially lower costs, permitting RFE/RL to meet its fiscal year 1996 budget target and maintain more broadcast operations.

*Question.* What impact will it have on the operations of the Radios if veteran personnel refuse to move to Prague?

*Answer.* It is true that most RFE/RL staff would prefer to remain in Munich. Some valued staff would decline to move. No company, however, can afford to locate itself according to the personal preferences of its staff.

*Question.* What are the costs involved in moving? What are the additional termination costs under German Labor Law for those employees who refuse to move to Prague?

*Answer.* The Arthur Andersen Study on Relocation Options, which is in the final stage of completion, will be provided to the Committee as soon as it becomes available. The report will outline the costs associated with a move to Prague and answer related questions on relocation.

The RFE/RL fiscal year 1995 budget request anticipates the payout of current severance liabilities for all employees. This, together with the full funding of the pension plans and funding of retiree health insurance, is essential to the reduction of future costs so that the Radios would be able to operate within a \$75 million budget wherever located. RFE/RL would incur additional costs of approximately \$2 million for a social plan for the employees terminating and not relocating to Prague.

## CONSOLIDATION OF RADIO FREE EUROPE/RADIO LIBERTY WITH VOA

*Question.* The President's budget, and the 1994 Foreign Relations Authorization Bill, both assume that the international radio programs of the Board for International Broadcasting will be substantially reduced and consolidated with those of the U.S. Information Agency.

While operating costs for the Radio Free Europe/Radio Liberty broadcasts will be reduced in 1995, and personnel will be reduced from 1,600 to 600, one-time costs of \$102 million are proposed related to these termination costs. This results in a net increase of \$46.7 million over 1994 appropriations.

What will be the impact on Board for International Broadcasting activities if all these funds cannot be provided?

*Answer.* If these funds are not provided in fiscal year 1995, RFE/RL will be forced to defer payments into the pension plans, payments for the post-retirement health insurance program, and potential litigation costs. Deferring pension payments will result in the loss of millions in interest earnings and the future years' liabilities will increase accordingly. In addition, the savings envisioned in the Foreign Relations Authorization Act will not be achieved.

*Question.* Please provide for the record a funding plan for the downsizing of the Radios if such reductions must occur through fiscal year 1996, rather than just fiscal year 1995.

*Answer.* It is a high priority to complete the downsizing in fiscal year 1995 in a timely manner to minimize overall litigation, among other costs. Pension contributions, litigation payments and post retirement medical insurance payments could be deferred/postponed to fiscal year 1996 and fiscal year 1997, but such action would significantly increase outyear costs.

LIMITATIONS ON EXPENSES FOR BOARD FOR INTERNATIONAL BROADCASTING

*Question.* The 1994 Foreign Relations Authorization Act, which should be enacted this week, limits expenditures for the reduced activities of the Board for International Broadcasting to \$75 million annually beginning in 1996. While this does not affect the operations of the Voice of America directly, as opposed to those of Radio Free Europe and Radio Liberty, it obviously has an impact on the overall international broadcasting operations of the USIA.

*Question.* Can this funding limitation be achieved?

*Answer.* At this time, we believe the funding limitation beginning in fiscal year 1996 can be achieved only if the full funding request of \$256,708,000 is appropriated to the Board for International Broadcasting for fiscal year 1995.

*Question.* Does this limitation apply to capital investment and equipment costs, or only to operating costs?

*Answer.* The limitation in the Foreign Relations Authorization Act applies to all operational costs.



**FEDERAL COMMUNICATIONS COMMISSION**

**STATEMENT OF REED E. HUNDT, CHAIRMAN**

**ACCOMPANIED BY:**

**ANDREW S. FISHEL, MANAGING DIRECTOR  
BLAIR LEVIN, CHIEF OF STAFF  
WILLIAM KENNARD, GENERAL COUNSEL  
JUDITH HARRIS, DIRECTOR, LEGISLATIVE AFFAIRS  
ROBERT PEPPER, CHIEF, OFFICE OF PLANS AND POLICY  
SANDY WILSON, ACTING CHIEF, CABLE SERVICES BUREAU  
RICHARD METZGER, ACTING CHIEF, COMMON CARRIER BUREAU  
RALPH HALLER, CHIEF, PRIVATE RADIO BUREAU  
RICHARD SMITH, CHIEF, FIELD OPERATIONS BUREAU  
THOMAS STANLEY, CHIEF ENGINEER  
MERRILL SPEIGEL, ADVISOR TO THE CHAIRMAN KAREN  
BRINKMANN**

**FISCAL YEAR 1995 BUDGET REQUEST**

Senator HOLLINGS. We will now hear from Reed Hundt, Chairman of the Federal Communications Commission.

For fiscal year 1995, the President's budget requests appropriations totaling \$167.4 million. Based on the President's budget amendment, submitted last Friday, the entire FCC budget now would be offset by user fees.

Of course, that is what they say. I doubt that, Chairman Hundt, because we are not going to make that information superhighway a tollroad.

We appreciate your appearance here today; and we have your statement, and it will be included in the record. And you can deliver it, if you wish, or highlight it, either way.

Mr. HUNDT. If I can, Senator, I would rely primarily on the written statement.

I would like to make clear, for the record, a couple of things that have been going on recently between the FCC and OMB; and to make sure that the statement is supplemented by my oral expression of this state of affairs.

OMB has agreed that its request, as previously received by you, should be amended to ask for FTE's in a number that amounts to 2,046. That is a higher number than was in the written information that you earlier received; but it does not change the dollar number of \$167 million.

Senator HOLLINGS. What would be the total?

Mr. HUNDT. About 82 less than that number. What they have agreed is that, given the \$167 million, the FTE could be, and should be, raised.

The second thing that I have been discussing with our friends at OMB recently is my view that the agency, in fact, should be the

subject of an appropriation of a larger amount of money; and should have still more FTE's.

As I am sure you know, Senator, I did not arrive at the agency until after the work was done by the agency on the appropriations request. In the 4½ months that I have been there, I have been concerned with the amount of resources that we have; and whether it is enough to keep up with the mission that we now have, given the great intensity of economic activity in the area.

This economic activity produces many, many requests for rulings on our part, many requests for rulemakings to promote economic growth; and many requests to consider license transfers and other business activity.

We want to expedite our consideration of these various matters associated with economic growth. I have said to OMB that I think that, and I have been very direct about it with them, we need a larger appropriation, and more FTE's, even if our legislative mission remains exactly as it is.

#### PREPARED STATEMENT

They are seriously considering this. They are inclined to look favorably on the request that I just made, and they would like me to alert you that they may well be suggesting a further amendment. I realize they need to do this quickly, and I will certainly be pressing them to move quickly.

[The statement follows:]

#### STATEMENT OF REED E. HUNDT

Mr. Chairman and Members of the Subcommittee, I appreciate the opportunity to review with you the Federal Communications Commission's fiscal year 1995 budget estimates. This opportunity is a special privilege for me as it is my first appearance before the Subcommittee since becoming Chairman last November.

Our 1995 budget estimates propose a total of \$167,400,000 and, as result of recent discussions with the Office of Management and Budget, 2,046 full time equivalent positions. Over half of the \$167,400,000, \$95 million, will be obtained from fees assessed against parties subject to the Commission's regulatory authority, as specified in legislation enacted by Congress in 1993. The fees collected are considered offsetting receipts. The estimate of \$167,400,000 represents an increase of \$7,100,000 over our fiscal year 1994 appropriation. The increase is confined to uncontrollable fixed cost increases. Approximately \$6.1 million or 86 percent of the requested addition, relates to increased personnel costs, including annualization of the fiscal year 1994 locality pay, an anticipated 2 percent pay increase for all employees during fiscal year 1995, and step in grade increases. Funds to cover increases in health insurance and worker's compensation accounts are also included. The remaining \$1 million reflects anticipated inflationary increases in travel, printing, miscellaneous rentals and supplies.

We have not adjusted our original request to reflect a proposed amendment to the fiscal year 1995 budget to be submitted by the President relating to rent and procurement. This amendment would reduce government rental costs by approximately \$568,000 as well as procurement costs by \$197,000. Since final action on this proposal is pending, our original request remains unchanged.

The Commission is responsible for regulating interstate and foreign telecommunications and managing the licensing of common carrier and broadcast radio and television services. This includes the licensing and administration of the broadcast spectrum as well as those entities providing interstate common carrier communications services. We exercise regulatory supervision over telecommunications markets that are not competitive in order to replicate, as nearly as possible, the results that a competitive market would produce. Equally important, we seek to promote competition wherever and whenever possible and to enhance access to markets by consumers and providers of services and products.

In carrying out our responsibilities, the Commission seeks to further two fundamental public interest goals: providing the public with broad access to telecommunications services and encouraging domestic economic growth. We strongly embrace the Administration's commitment to manage government more efficiently and effectively.

Virtually every item before the Commission, ranging from the regulation of interstate and international telephone rates and services, to the rules governing the emerging technologies, requires extensive analysis. Our commitment to consumer access and economic growth involves the development of initiatives that will foster competition in markets that are presently non-competitive and increase competition in markets that are in transition. These responsibilities demand a rigorous and integrated pursuit of several disciplines that ultimately must be merged in the actions of the Commission. For example, we must evaluate the engineering and technical merits of particular technologies, calculate the economic impact of their proposed use and determine the extent of any legal restrictions involved. The dramatic growth of the telecommunications and information industry and its increasingly significant role in the national economy underscores the vital importance of the Commission's deliberative decision-making process.

The incredible expansion of the telecommunications industry over the last decade, including equipment, services, communications and information sectors, affirms our Nation's global leadership in this area. In constant dollars, the industry has grown from \$478 billion in 1982 to \$783 billion in 1993. This remarkable growth has occurred during a period of unmistakable and fundamental industry transformation. Once reflecting discrete and separate enterprises, the telecommunications industry has become a model of how technology and competition can create economic advancement. The Commission's ability to structure sound policies, to review applications expeditiously, to promote the deployment of new technologies and services, and to undertake prompt, fair adjudication and enforcement actions directly relates to the viability of the industry. The movement of various telecommunications markets toward a more competitive environment demands that the Commission fashion policies that will encourage this development while protecting consumers from unreasonable prices and practices during the transition.

The manner of regulation has also changed dramatically. The engineering and scientific, economic and legal analysis required is not limited solely to present circumstances, but is linked to the direction of technological advances and entrepreneurial initiatives. The Commission must continue to establish regulatory policies that will promote creativity, innovation, efficiency and growth.

The historic and present role of the Commission is reflected in its oversight of interstate communications services. The telephone company of yesterday was thought to be a classic, natural monopoly. Because it was thought economically infeasible to have multiple service providers, all services, facilities, rates and practices were subject to regulation. Technology and enterprise have shattered this preconception. The telephone company of today faces competition as well as being a source of it.

Today, a single company may offer services in a market for which there is little competition, such as regulated local telephone service, alongside competitive services, such as data processing, which is not regulated. The Commission has established safeguards to ensure that ratepayers of the regulated service do not subsidize the unregulated data processing service. Through audits and enforcement actions, the Commission ensures the effectiveness of these safeguards.

In fulfilling its responsibility to maintain the viability of affordable telephone service, the Commission must ensure that regulatory barriers do not artificially preclude competition. In the previous era, one company provided equipment, local or long distance service. Access by competitors remained limited even after the 1982 judicial consent decree, the Modified Final Judgement (MFJ), which divested the Bell system. Recently, the Commission has undertaken actions to bring about a more competitive environment. In both the long distance and telephone equipment markets, the Commission has played a critical role in the evolution toward competition by removing regulatory barriers to entry for new competitors and taking steps to ensure that consumers have access to competing products and services. It has resulted in the availability of more services as well as decreased prices.

Lack of competition in cable and the presence of unreasonable prices lead to passage of the Cable Television Consumer Protection and Competition Act of 1992. This month, the Commission completed its revision of regulations implementing this law. The regulations assess whether rates for cable services are reasonable, and provide a structure for consumers and cable operators to resolve complaints. The future compatibility of cable systems and consumer electronics equipment is also addressed.

Inherent in the Commission's responsibility was the need to achieve quality cable service at a reasonable price while ensuring the cable operator's ability to earn a return sufficient to encourage continued investment in the business. The Commission's orders establishing the appropriate rate formula reflect the diversity of the industry as well as our obligation to explain fully the Commission's decision. Notably, in addition to the full orders, the Commission presented a streamlined explanation to cable operators on how to use the formula, computer spreadsheet programs that perform the rate calculation, and a facsimile center wherein the Commission can compute the calculation for the cable operator.

The Commission has undertaken action to increase competition in the cable area. While restricted by law from providing direct video programming, local telephone companies are authorized by the Commission to furnish non-discriminatory access to multiple video programmers within their territory. This program access has the potential of providing a competitive alternative to present cable monopolies.

In 1993, Congress mandated that the Commission design and implement an auction procedure for the licensing of personal communication services (PCS). The wireless PCS technology has the potential of creating new markets, enhancing competition in present ones, providing greater public access to myriad communication services and raising billions of dollars for the U.S. Treasury. The Commission is presently engaged in the complex and delicate task of structuring a fair auction process that will fully realize the potential of PCS and ensure access of competitors into the wireless communications markets.

Another area where competitive opportunities exist involves a previously separate sector of communications called broadcast television. Through the advent of Advanced Television Service, in particular High Definition Television (HDTV), many telecommunications uses are possible, including forms of PCS. In the context of spectrum allocation and licensing, the Commission has structured a process where the many significant technical issues involving scanning and transmission techniques, as well as economic and legal issues, can be raised and resolved. The digital technology that HDTV offers can greatly improve the quality and quantity of communications services available to viewers. By carefully drafting the parameters for these advancements to flourish and ensuring that the public trust responsibilities of broadcasters remain, the Commission stimulates entrepreneurial initiative and encourages pursuit of economic growth.

The need to combine engineering and technical expertise, with economic and legal concerns, goes beyond telephone, PCS and HDTV. Implementing digital audio services for improved radio sound quality, modernizing the Emergency Broadcast System (EBS), instituting Mobile Satellite Services (MSS) (with its wide range of new and low cost voice and data transmission services), and "refarming" Private Land Radio Mobile Services are but a few examples of other significant items before the Commission. In the last example, new technology can improve quality, efficiency and capacity of the radio broadcast spectrum. We at the Commission should implement a transition that comprehends the economics of change while ensuring an environment that fosters competition.

The Commission has broad responsibilities in international communications, including allocation and coordination of radio frequencies, licensing of international transmission facilities and services and development of standards and operating procedures in international fora. The Commission's actions in the international area are intended to fuel U.S. economic growth through the creation of new businesses abroad for U.S. companies by promoting worldwide development of new wireless technologies and infrastructure development. We are encouraging the licensing of United States service providers in overseas markets and promoting private investment, competition, and regulatory reform both in developed and developing countries. The Commission has played a major role in several recent discussions with foreign governments by advocating the benefits that accrue from privatization, competition, and regulatory reform. By pursuing open communication markets throughout the world, U.S. companies that have firsthand experience in the competitive environment will benefit dramatically.

We are witnessing an evolution of convergence of networks and markets, whether it be telephone, broadcast, cable, wireless or satellites, domestic and international. A range of companies, once segregated by product or service, will soon compete to provide voice, data, and video services. The products and services generated can offer great benefits to the consumer and the economy. The movement toward a competitive environment, however, is not accomplished overnight. It falls to the Commission to be able to structure the transition, monitor progress, and undertake corrective measures if the transition falters.

With each effort, the Commission balances carefully the burdens that are imposed on industry with such important decisions. Moreover, we are also reexamining each

Commission regulation, process and procedure to determine whether it should exist or be scaled back. We are reviewing the degree to which licensing areas can be performed more efficiently, or perhaps eliminated, while upholding the underlying intent of the law. We are examining the number of offices we have to determine whether any may be consolidated. We look forward to working with the Congress, particularly this Committee, in making the Commission more efficient and effective.

In detailing, albeit briefly, the responsibilities of the Commission, I have sought to relate the complexity of the issues, and more importantly, the enormity of the task before us. To execute the law properly, virtually every matter involves an extensive analysis of technical, economic and legal issues. The substantial financial interests at stake dictate fair, competent and thorough decisions. The ramifications of the Commission's actions draw strenuous advocacy from those affected. That which is advocated, while aggressive and extensive, usually reflects a particular private interest, not the public interest. Notably, while businesses welcome competition, the welcome mat is usually laid only before its suppliers and distributors. It falls to the Commission to foster entry into all markets so that the public interest is the ultimate beneficiary.

The Commission has a fundamental responsibility, therefore, not simply to discern the various arguments, but to analyze the law, the economics, and the technology applicable to particular facts; only then can reasoned judgment prevail and the premise of a decision be clearly articulated. This is at the foundation of a government agency's ability to carry out its mission, and to make that mission understood.

To meet this standard, the agency draws on its most important resource, its employees. The Commission is comprised of an impressive cadre of honest, committed, energetic and highly competent professional and support staff who take seriously the responsibilities of the public trust. The Commission's capacity, however, to act decisively, with clearly articulated rationale, is subject to extreme strain as the quality of work is challenged by its quantity. While telecommunications has grown tremendously, the Commission's real resources have actually decreased. During an era of ever increasing responsibilities, the number of full time equivalent positions has dropped by almost 500 positions, from 2,200 in fiscal year 1980 to 1,724 in 1994, excluding those positions added as a result of the 1992 Cable Act. A parallel scenario is reflected in the Commission's infrastructure, whether it be engineering equipment, its communications capability, its facilities or the backlogs that plague virtually every component of the agency.

Informal complaints regarding telephone rates and service grew to 32,024 in 1993, as compared to 16,988 in 1992. 6,656 of these informal complaints remained pending at the end of 1993. While the average resolution time is 315 days, over 5,000 took over one year to resolve. Pending applications for land mobile service licenses increased from 8,000 to 42,000 in the last year, doubling the processing time from three to six months. Private microwave licenses require up to 80 days for review, 20 days longer than the previous year. The backlog of pending applications for Instructional Television Fixed Service rose from 251 in 1990 over four times to 945 in 1993. Of the 4,000 authorization applications in FM broadcasting filed in 1993, 25 percent were contested and taking 24 months to resolve. Finally, while the Commission's efforts to process requests for information has been assisted by placing documents on the Internet, we continue to face over 4,000 requests per month.

There is no short cut method to analyze the technology, the economics and the law as they relate to a particular issue. The Commission must have the resources to listen, gather information and analyze competing views. The arduous process by which our decision making yields actions must be clearly articulated, rational and comprehensive. While resources alone cannot produce this result, the result cannot be achieved without resources.

If the Commission is to fulfill its responsibilities and the telecommunications industry is to be a growing sector of the American economy, the Commission must have a larger resource base. The Commission must move expeditiously on a range of matters. It must enhance its capability to confront, analyze and resolve the myriad technical, economical and legal issues placed before it. Not only is the future of a vital industry at stake, but substantial revenues to the United States Treasury depend upon the Commission's effectiveness. We are discussing with the Office of Management and Budget how the request before you can be revised. As part of that process we are delineating those areas where the Commission needs additional resources, as well as examining how the Commission's workload can be affected by possible amendments to the law, the regulatory changes under consideration and emerging competition.

Last week, the Administration submitted to the Congress an amendment to the fiscal year 1995 budget relating to the funding of a recent immigration initiative.

In order to fund the initiative, the amendment proposes that the Commission be fully funded during fiscal year 1995 by fees assessed against those entities it regulates. This would require the Commission to further increase fees and reflects the overall challenge of finding sources of revenue to pay for the range of competing programs and priorities. We look forward to working with the Subcommittee as it examines the issues the amendment raises.

The tremendous advances in telecommunications are subject to intense Congressional scrutiny. Legislation reported in the House of Representatives and pending in the Senate would, by overhauling the Communications Act of 1934, give substantially expanded responsibilities to the Commission. S. 1822, H.R. 3626 and H.R. 3636 would do more than allow the Regional Bell Operating Companies to enter previously restricted markets. The bills seek to introduce or enhance competition in a broad range of telecommunications markets including local and long distance. The legislation will establish a comprehensive, concrete set of rules and guidelines, as compared to the present rules which are issued on a piecemeal basis by various federal courts, federal agencies and state authorities. The legislation follows a careful format for monitored and regulated transition by the Commission to protect consumers from unreasonable price increases as competitive markets evolve. The legislation also includes provisions relating to education that provide significant telecommunications advantages for a vital constituency of our nation, our children. The expanded responsibilities of the Commission under these proposals will impact its resource needs to a significant degree.

The remarkable growth in the telecommunications industry, its innovative future and technology driven markets, along with pending legislation of historic proportions, makes this a time of immense opportunity for the Commission. This Subcommittee's support of its efforts, particularly the establishment of the offsetting fee structure in 1993, has been crucial. It makes for an era of much excitement and optimism.

This completes my statement Mr. Chairman. I would be pleased to respond to any questions you or the Members of the Subcommittee may have.

#### FTE REQUIREMENTS

Senator HOLLINGS. Well, how about impressing us now, in finding out how many people you really need? We have got a great respect for the OMB, but it is being diminished by the shenanigans that continue on and on and on, with different fees and every other gimmick.

I mean, it is just rhetoric. It is not realistic. And we have got to make sure that the pending legislation that we hope to get something by—I do not know. They have always had the abilities, our companies, to kill off a vote. I tried to deregulate communications all during the seventies; and received a nice compliment from Judge Greene when he said he used part of our minority's points for his order.

But the fact of the matter is, we could not do it in Congress. It was not that Congress was indolent and apathetic. We thought things were going along just fine. It was a situation where these are powerful forces in our society; and they can kill anything. And it is hard to get any real legislation through.

But we are hopeful. And any kind of realistic legislative treatment has got to depend on you, the Federal Communications Commission. In fact, that is the whole thrust at the present time now, is to take it from the judicial branch, the one-judge administration, and bring it into the people's entity, the Federal Communications Commission; and to measure these things which would be different in different regions and a lot of rulemaking, as you indicated.

So we want to know your needs. And we will not be waiting on the OMB to find out what they think. Because they have already proposed actions in the wrong direction. OMB proposed increasing FCC user fees for immigration. We know their thinking downtown.

So that being flawed, what is your thinking? How many do we need?

Mr. HUNDT. If we have our mission just remaining the way it is now, that is, if there is no additional legislation, I think the FCC's size needs to move back toward the level it was at in approximately 1980. In 1980, the FCC had 2,240—if I remember the number precisely—FTE's. That number was reduced by about 500, between 1980 and 1992.

It was increased by 240, in order to take on the responsibilities of the Cable Act. However, outside the scope of the duties under the Cable Act, the jobs that we have to do which deal with the pace of change, and the great growth in the size of the economic sector that the FCC is charged with regulating has so increased, that I think that that 1,740 number needs to move back up toward that 2,240 number.

That is about a 500-person shortfall; and I think we need to move back up to that 500 additional people. I do not think that that needs to be done in 1 year; and I do not think that it necessarily needs to be the case that, forever, we need to go up to 2,200 and stay there.

I think we are dealing, over the next several years, with a real burst of economic activity; and we should have more people. But I would say it is somewhere between where we are now, and 500 more.

Senator HOLLINGS. That sounds good. Do you want to complete your statement? Then I will yield.

Mr. HUNDT. I will just wrap it up there. I would like to rely upon my written statement.

Senator HOLLINGS. Senator Bumpers?

Senator BUMPERS. Mr. Chairman, I am surprised that even you are here this morning. I thought you would surely cancel this thing today.

Senator HOLLINGS. Well, we are backed up. We have got a lot of communications here, and a lot of appropriations there.

Senator BUMPERS. Mr. Chairman, just to give you a little history.

#### PRESERVATION OF PUBLIC SAFETY

In 1992, Senator Hollings and I added language to your appropriations bill that said that you would preserve indefinitely the priority of public safety agencies on the bands that they now hold on, I guess you would call it, the 2-gigahertz band of the radio spectrum.

When we went to conference back there, the House was perfectly willing to accept mine and Senator Hollings' language, reserving public safety's position on that band. But the Commission at that time had adopted a rule identical to the legislation; so we dropped it in conference, thinking that the rule would be just as good as the legislation.

Now, all of a sudden, you propose to take them off again; and give them 5 years on the band, after which they would be left to fend for themselves.

Now you may or may not have been told by your staff before you came over here today, for example, in my State, we just got through spending \$35 million on a new State police radio system

on this band. And obviously, if we get 5 more years' of use out of it, that will help some; but we were planning on 25 to 30 years usage of this system.

Now, a State like mine does not come up with \$35 million easily. So, if you are going to say to the Arkansas State Police—and I suspect that there are a whole host of public safety organizations around the country similarly situated—that after 5 years, they can fend for themselves, how would you suggest that I tell them that?

Mr. HUNDT. This is a very serious issue. I have met with public safety representatives in my 4 or 5 months on the job, and I very much understand that we need to preserve their ability to use the radio spectrum for law enforcement.

The competing concern here is, how can we jumpstart the personal communications business, where we might have as many as 100 million new subscribers over the course of the next 10 years, which could add economic growth to our economy, in every State including Arkansas, in the billions of dollars.

The problem is that the PCS business would have to occupy the exact same spot in the band as some of the public safety uses. I know the law enforcement community does not want to have an interference problem, having nonlaw enforcement users in the exact same band.

Our current plan is that the law enforcement community should negotiate moving to a different spot in the spectrum; and if they cannot consummate after 4 years of negotiations an agreement that would be voluntary, then they would be able to go into what we call mandatory negotiation in that last year.

An absolute condition in that negotiation is that the law enforcement user would not have to pay any costs whatsoever associated with the move. New equipment and all other costs would be paid for by the new PCS commercial entity.

Our hope is that, it is essentially cost free, the law enforcement community can move; and at the same time, there will not be any disruption of their ability to use the radio spectrum for the law enforcement purpose.

Senator BUMPERS. Well, let me ask you a couple of more questions. No. 1, do they lose some of their efficiency and the quality of the system, by being forced to move? And No. 2, can you tell this committee approximately what that is going to cost?

I mean, 5 years from now, Senator Hollings and I may or may not still be around; but you are going to be coming up here asking us for the money, for the Arkansas State Police, and everybody else in the country.

Senator HOLLINGS. The REA, and all the rest of them.

Senator BUMPERS. So, how are we going to know what we are getting into here? Can you give us some idea of what you anticipate the cost of this move will be? We would appreciate that.

Mr. HUNDT. That is a good question. The expenses, the move will be paid for entirely by the business entities that buy the PCS spectrum, in the auctions that will start with the end of this year.

#### PCS AUCTIONS

Senator BUMPERS. You are planning on auctioning this band off at the end of this year?

Mr. HUNDT. We are actually going to begin the narrow band part of the auction this summer; and then the broad band part of the auction should follow the procurement process. That is, we will obtain the services of an outside firm to actually conduct the auction, because that is not something we do.

When that procurement process is complete, the auction itself will commence. Congress, as I am sure you know, gave the FCC 5 years in which to conduct the auction.

If we are successful, as I just said, starting the narrow band auction this summer, we will have gotten underway in just about 1 year; instead of waiting toward the end of that 5-year period.

This 5-year period is the same 5-year period in which we want to see the law enforcement community be compensated fully by the private sector for any move it might have to make, in which it essentially vacates that spectrum so that the business users for PCS can come in and use it without creating interference.

Senator BUMPERS. Well, Mr. Chairman, you are going to auction these bands off, and I assume it is going to bring a heap of money.

Mr. HUNDT. I hope so.

Senator BUMPERS. That is a very valuable thing you are auctioning off. People like Motorola would pay a fortune to get into that.

But now, Senator Hollings and I have been around here long enough to know that you are going to take that money, and that money is going to go into the U.S. Treasury now; and 5 years from now, that money is going to be gone. You are not going to be able to set that money aside to take care of this.

#### PCS RELOCATION COST

Mr. HUNDT. Well, the incumbents, the law enforcement users, will actually be using the spectrum until the private entity comes in and pays the incumbent to vacate it.

Senator HOLLINGS. So you are telling me, there are two amounts? The amount you pay at the auction, and then whoever wins that auction also should anticipate at least \$35 million, to use the Arkansas State Police part of it?

Senator BUMPERS. You do not seem too enthusiastic about your answer. I want to be sure you agree, you understand this.

Mr. HUNDT. I agree with Senator Hollings. He stated it correctly. The private entity will pay the U.S. Government for the spectrum, but will also incur the obligation to clear that spectrum of law enforcement users; and will have to go into its own pocket to do that.

Senator BUMPERS. Why this 5-year moratorium or period, in which they can continue to operate, after which they are out? Why do we have that language in the rule?

Mr. HUNDT. Well, our thought is that the private entity which will buy the spectrum block will immediately have a very strong incentive to figure out what law enforcement users are in its spectrum band, and how it should negotiate with them.

The private entity will go in there, and if it wants to clear them right away, it will offer more money. It will offer special inducements.

Senator BUMPERS. What if they are not going to offer enough for that particular spot, to allow them to set up another system?

Mr. HUNDT. Well, for 4 years, the law enforcement user, under those circumstances, would just say, "No way," and that would be fine.

Senator BUMPERS. Why do you not change your rule, then, to say, change the 5-year rule to say they can negotiate, but if they do not get enough money out of it, they do not have to leave.

Mr. HUNDT. In the fifth year, they will have to leave eventually; or we just will not have the economic growth out of this spectrum. But in the fifth year, after 4 years of saying no in this negotiation, if it does go that badly and if they do not get offered the right price by the private user, they will actually be able to insist that they get fully compensated for all of the cost of the move. They will have the right to do that.

Now, our thought is that—

Senator BUMPERS. I know. But if there is nobody there to buy it, how do you rule right now they still have to leave?

Mr. HUNDT. No; the private user will have to pay them. Under all circumstances. If there is ever going to be a move of that law enforcement function.

Senator BUMPERS. Are you saying that they do not have to leave, until the private user makes them that kind of an offer?

Mr. HUNDT. That is correct. Until they get their full compensation.

#### PCS 5-YEAR RULE

Senator BUMPERS. Do you not then have to change the 5-year limitation of your rule, so that that is clear? That is not clear, under the rule right now, as I understand it. You are telling me something I have never heard before; and certainly, you would not interpret the rule to say that.

Mr. HUNDT. I am attempting to explicate the rule. I will certainly be happy to take another look at it, and see if it needs to be clarified in any respect. But I have been, and we have all been meeting with the law enforcement community, and sending the message that I am sending today.

It may well be the case, Senator, and I cannot predict the future in this respect, but it may well be the case that with some law enforcement users that they will find that they get offered more than the cost of the move, in order to expedite the move. This may be of benefit to them.

Senator BUMPERS. Are you going to give them the extra money, if they get bid more?

Mr. HUNDT. It is up to the private sector. If the private sector wants to pay a law enforcement user more than the cost of the move, then the private entity can do that.

Senator BUMPERS. So, for example, if we said, "Well, we have got \$35 million invested, but we ain't leaving for less than \$50 million or \$100 million," or whatever?

Mr. HUNDT. If it is worth it, to the private user.

Senator BUMPERS. Are you telling me that, in my case, and I think there are dozens of cases—I have been using the Arkansas State Police, but there are dozens of cases—as Senator Hollings said, the railroads, the utilities, an awful lot of people are in this band.

Senator KERREY. If the Senator would yield for a minute?

Does that not, Mr. Chairman, create a situation where someone—where you are basically saying that if I happen to have a use in an area that is not considered valuable to a commercial interest, that I am going to get less money to vacate than somebody that occupies, lives in an area, or has a function in an area where the market is valuing it at a higher price?

Mr. HUNDT. Well, you will never get less than your cost of moving. You will always get paid the cost of moving.

Senator KERREY. But I could see a situation where a rural area might end up with a lower price, simply because the market does not bid that price up as high as it would in a metropolitan area, for example.

Mr. HUNDT. It is certainly plausible that, if we are speaking about the prices paid that are above the cost of moving, that someone who happens to occupy a more valuable piece of spectrum might be offered a higher price.

Senator KERREY. If I get the bid on, let us say, Los Angeles or Little Rock, I mean, it seems to me that whoever wins the Los Angeles market is going to be willing to pay a much higher price for that, for the purpose of acquiring that, than they will be for Little Rock—or Lincoln, for that matter. And so, the law enforcement folks in Lincoln or Little Rock might end up with a substantially smaller amount of money to vacate than Los Angeles.

Mr. HUNDT. That is true. But if I could say so, Senator, there will be other factors as well. For example, as Senator Bumpers has mentioned, if you are a law enforcement user who has just invested a substantial sum of money, you are not going to be as eager to move in a hurry; because you will be looking at a lot of useful life for your equipment that you have not yet been able to extract.

If, on the other hand, you are a law enforcement user that has got to buy new equipment anyhow, you might as well move. You might be more eager to do so.

And so I think that, in each separate negotiation between the law enforcement user and the private sector, there will be many, many different considerations. It was our judgment that it would be very difficult for us to ascertain all of the different circumstances that would bear on these negotiations; and the best thing for us to do was to let the parties negotiate, provided that there was one thing made clear: the law enforcement users would never get less than the cost of moving.

#### PCS RELOCATION COSTS

Senator BUMPERS. Well now, Mr. Chairman, there are a couple of questions that we need to really nail down.

No. 1, if they cannot negotiate a price equal to that, they do not have to leave the spectrum?

Mr. HUNDT. In that last year of the 5-year period, they will be able to demand, and have a legal right to, the cost of moving. But in that last, fifth year, they would have to settle for nothing less than 100 percent of the cost of moving.

If they had been previously insisting on 150 percent of the cost of moving, they would have had to strike that deal before the end of the 5 years.

Senator BUMPERS. Do you mean, before the end of the 4 years?

Mr. HUNDT. Well, that is right.

Senator BUMPERS. You are saying, in the fifth year then, they could demand, they could demand whatever amount it is going to take for them to move?

Mr. HUNDT. That is exactly right. And we would step in then, and make sure that they got that.

Senator BUMPERS. OK now, in the first 4 years—let us assume that it is going to cost them \$50 million to move. And let us assume they say, "We have got this band; we do not have to give it up for another 4 years. We will get off now for \$100 million."

Mr. HUNDT. Yes, sir?

Senator BUMPERS. Are they entitled to the entire \$100 million?

Mr. HUNDT. If they can persuade the private user to give them the money.

Senator BUMPERS. I am saying, if they can strike a deal with the private user that wants that band, for twice what it would cost them to move, do they get the extra money?

Mr. HUNDT. Yes.

Senator BUMPERS. And then, the fifth year, if a private user is not willing to give them a sufficient amount for them to move—and incidentally, get a system equal to or superior to the one they have; and you can get into all kinds of negotiations over what kind of a move this is going to be: Is it going to be a good move for them? Is the system quality going to be higher? And that sort of thing—but what I am saying is, if they do not get enough to move off that system and get another system that they think is as good or better than the one they have, they do not have to move. Is that not correct?

Mr. HUNDT. The rule states that the new licensee will pay all of the costs of the move. And the facilities to which the incumbent is to be moved must be comparable to the existing facilities. Those are the two rights the incumbent has; and those, we would step in—

Senator BUMPERS. What do you mean, when you say, comparable to the present system?

Mr. HUNDT. Well, it is spectrum that is just as usable. That would be a way of deciding whether it was comparable or not.

Senator BUMPERS. Well, would it be fair to say the quality would be as good or better?

Mr. HUNDT. Yes, sir; but there is more than one parameter associated with spectrum use. There are interference issues; there are questions of whether it is much more expensive to exploit the spectrum. There are a lot of different questions; and it would not be possible for us to answer them all in advance, for something that is 5 years out. Because technology is evolving so much.

So what we have is a standard that we would then apply in that fifth year; and make sure that the standard was met, taking into account whatever was the technological capability at that time.

Senator BUMPERS. Well, Mr. Chairman, I am not going to belabor this any further. I just want to be sure, for example, I am not trying to say the Arkansas State Police system can hijack some private user, to double their money.

But I practiced law long enough to know that a lot of these words are terms of art. When you talk about comparable, that means a lot of things. And I do not want them to just get their \$35 million back. I want them to get enough to also pay them for their inconvenience.

They just put this system in; it has been on the line 2 years, and it took them about 4 or 5 years to build it. Now all of a sudden, somebody comes in and says, "Well, we will give you a system just as good," and they have to start all over again.

Just to say, "We will compensate you for what you had," is not enough. To say, "We are going to compensate you for your system," is not enough, because they have been terribly inconvenienced by all of this. I do not want them to make a profit, but I want them to be treated fairly.

Mr. HUNDT. I follow you.

Senator HOLLINGS. And who determines enough?

Senator BUMPERS. That is a very good question.

Senator HOLLINGS. I mean, suppose I am a lawyer out there in Little Rock; and I want to hold up everybody. And I just say, "By God, we are just going to sit tight." Because, what? I can appeal. And you say, instead of \$35 million for the loss of service and inconvenience, we will give you another \$20 million. So that is \$55 million.

I still say, "No; that is not enough." What happens? Do we appeal it to you, or the court?

Senator BUMPERS. That is a good question. Who is going to have the final say?

Senator HOLLINGS. I am delighted to see both of you gentlemen. Senator Kerrey?

#### REGULATORY POLICY

Senator KERREY. Mr. Chairman, thank you. I would like to talk a little bit about the regulatory policy in general; and your approach and, indeed, our approach to changing the regulatory environment.

I appreciate very much your willingness to do that; the administration, the President and the Vice President, and Chairman Hollings' willingness, as well.

As I look at the period of time from 1934 to today, it seems like we basically said for 50 years we provided a regulatory monopoly; and we built the finest telecommunication system in the world, AT&T. And that is how I view it.

Now, maybe I am wrong. Maybe there is some dispute about whether that is what we did. But for 50 years, we built the best telecommunication in the world.

Then we began to change the regulatory environment, with divestiture in 1984; and Judge Greene and the FCC have been dividing authority ever since. And the question occurs today: How should we regulate it? And how do we regulate, and what are our purposes for regulating it?

It seems to me one of the battle cries still in the works is this idea of universal access needing, of course, to be defined; because dial tone is obviously not an adequate definition any longer. We have to define what universal access is.

I would point out to Chairman Hundt that, in some related areas of communication, we have achieved universal access without the need to regulate at all.

For example, I remember the first black and white television set that was in our home. I was 10 or 11 years of age in 1954, somewhere around then; we watched the coronation of the queen, we all gathered around the television set. Well, it took us about 30 years, the market took about 30 years, until we arrived at a point where 99 percent of American homes had television sets.

Indeed, it is accurate to say that more American homes have television sets than have running water. The market did that. I mean, we did not have to say, well, this is—the market took care of it, and we now have 99 percent of the American homes with television sets, and an increasing amount of access as a result.

Computers, of course, are doing the same thing. We have not set a regulatory objective that we have got to have a computer in every home; but as a consequence of competition, and rather fierce competition at that, both the quality going up and the price of the product is going down, an increasing number of households are purchasing the computers. And somewhere around 40 or 45 percent, as I understand it, are now in that category.

What causes me some concern is trying to figure out now, how do we move? Because I understand what we are going to try to do is move from a partially deregulated environment, where we have deregulated in long distance; and so that I have got a lot of competition in long distance, amongst long-distance carriers.

#### MANAGED COMPETITION

We are now going to try to move from that regulated environment to deregulate at the local loop; and we are going to try to manage the movement from regulation to competition, as I see it. Is that how you see it, as well?

Mr. HUNDT. I think so. I think you and Senator Hollings have a bill that is a key effort in that very process; it is a transitional phase.

And as you know—both of you, better than I do, from your long experience on these issues—the great difficulty is that consumers do not have a choice now. They do not have a choice for cable programming. They do not have a choice for local telephony.

They have some choice in long distance, thanks to the efforts made by the Government to break that monopoly up. But introducing choice in these markets is a very difficult thing; but if we do not, we will be denying opportunity.

I would say we have a two-point program at the FCC: choice and opportunity. We will be opening opportunity to new entrants, and opportunity for access to the markets by new suppliers, and opportunity for all people to participate in the communications revolution.

It is a very difficult thing, to introduce choice where there is no choice; and the incumbents do not always welcome it.

Senator HOLLINGS. If you would yield, is the definition that we have in Senate bill 1822 flexible enough, or should it be more specific?

In other words, universal service is a changing, moving target, and it moves not only over time but within different areas or regions, that would constitute universal service. So we use a flexible approach, for the definition to really be determined at hearings by the Federal Communications Commission. Is that right or wrong?

Mr. HUNDT. It is right.

Senator HOLLINGS. Excuse me.

Senator KERREY. That is fine. For the record, you said that I have a bill in. The chairman has one; he is the chairman. He is the engine, I am the caboose, on Senate bill 1822. [Laughter.]

Let me give a hypothetical, because these things can get very confusing, I think; and I think the legislation is good, but it can get very confusing on the consumer.

And so, I live in Omaha, NE, and I am a consumer, and I have got a household there; and I would like to start buying information services. Well now, I have got a local telephone company I do business with; and I can go out on the Internet and I can kind of shop around out there and see what is out there.

But in order to approach me, you have got to approach me through the local telephone company. I mean, that is the way it works right now. They have got a monopoly franchise and they operate it, and they provide good service; and they are trying to move to a competitive environment. But it is still, sort of, we decide what the customer wants.

I mean, what would happen, what are the down sides in your mind, if we just said, "Look, we are going to have a Le Mans racing start here on January 1. We are going to bring the flag down, and you all go at it. And if there is antitrust abuse, and if there is restraint of trade and unfair practices, we will deal with it at that time."

I mean, I do look at the extraordinary progress—and I do think computers, by the way, are driving this thing—and I look at the extraordinary progress in the last 10 years in the computer market, and imagine what would have happened if Justice or FCC had tried to regulate that?

Or, more appropriately, if we politicians had tried to regulate it? Because, essentially, you regulate as a consequence of the powers that we extend to you. So, I mean, I just do not think we could have done that.

I think we have got a fabulous success story out there, and it causes me to wonder just what happens if you just let, say, "Let's have competition." I hear people talking like they want to compete, and I question sometimes whether they do. I hear them saying that, "Gee, I am for competition, and I want to have, well \* \* \*."

I would not mind saying, "Let us put them to the test." What happens? What is the worst case scenario, if you just say, "OK, boys and girls, you can have at it after January 1. Bob Kerrey and 117 other million American households can just, they are going to have access to information services, and they will go out and buy them."

Mr. HUNDT. Well, this Senate bill 1822 that Senator Hollings is the engine on, as you said, Senator Kerrey, in fact heads in that direction. For example, Senate bill 1822 permits the telephone companies to get into the video programming business. It permits them

to enter a market where there is no choice right now, in 99 percent of all the communities.

Senator KERREY. But we are trying to, we are trying to manage the movement. I mean, we are saying with that legislation that we recognize that there is monopoly at the local level, and significant economic power that comes with that monopoly.

And we are concerned about what happens as a result, to any potential competitor; and so, we are using a numerical evaluation, saying that, "Here is the market share that you have to give up, before you are able to go into interLATA," as an example. And it seems reasonable, by the way; it does not seem like it is an unreasonable thing to do, to make that conclusion in the law.

What I am suggesting, though, is that—not suggesting. I am saying it—when I look at what is the success of the computer market over the last 10 years, and their success at delivering to market a higher quality, lower-cost product, I am wondering whether or not that should not be our model; and say, "We have got the message. You guys want to compete? Let us compete. Let us let the consumer buy."

There must be some way for us to devise a system where information service companies—and let us say, for example, I decide I want to buy my information services from Disney.

Somebody just passed me a note that said I was inaccurate. Well, so what? [Laughter.]

That is my story, and I am sticking with it. [Laughter.]

#### MARKET SHARE

Senator HOLLINGS. If the gentleman would yield?

What we are saying here is, "Look, the local Bell companies have 99 percent of the control of access to that particular region, or particular local calls for long distance."

Now, if I am chairman of one of those Bell companies and I have got 99 percent—almost 100 percent—control of it, and I receive 46 cents of every \$1 long distance pays me; and if I can take that 46 cents and diffuse and confuse it, and use about one-half of it as an advantage I think I would be able to take over long distance. It is not bringing them in and just letting them have it, the fare we have—and you are telling me it is an unfounded fare—whatever it is.

But I think you could get a new chairman of this particular Bell company that I am chairman of, if I could not, by god, turn that into another monopoly. I would be able to take over all long distance; and I have got control of all long distance calls coming into my region now, to the tune of 99.2 percent. And I get paid 46 cents, almost one-half of every \$1.

And you say, AT&T—AT&T is outstanding, was outstanding and is outstanding. One of the other features of their outstanding operation was we never were able to audit them; we tried. The FCC—I know I have asked commissioners for 27 years now about it.

And I can really take that 46 cents' portion of it, and hide it down into all of my records and everything else. And I have got appeals in courts I have been to, and everything else. And after about 4 or 5 years, I will have it. I think I have got enough money right this moment to buy out MCI and Sprint.

I do not have enough money right now to buy out AT&T, but I could put the chucks in their wheel. And in 4 or 5 years, I would have them, too. Is that an unfounded fear? Is that stupidity? Is that right, wrong, or—that is the real apprehension that we have as cosponsors of Senate Bill 1822.

And that is why we set up this studied approach, of letting them do all these other things; where they are not in the region, let them go into each other's region, and I hope they do.

Oh, I have used the example, because MCI has announced they are going to spend a couple of billion to get into local calls, into the local exchange. So they are coming into Atlanta. And let us say they come right into Atlanta, the downtown, the cream part, the business areas.

Then we allow Bell South to define that as a market. They do not have to have the city; they do not have to have the county, Fulton County. But they can decide that at the market, send them a thank you note, and then they would get into long distance, too. And all the time they would pay you.

#### MONOPOLY CONCERNS

Now, we have tried to make it—I do not want to mess up the Bell companies. I mean, they are the ones providing our phone service, and good communications.

But I do not want them, with their tendencies and that kind of control and power, to go in and just take over all the others, and ruin the salutary results that have come from competition in long distance.

Comment on that, will you please? And tell us whether we are right or wrong, or how can we do better?

Mr. HUNDT. I think, Senator, that you are absolutely right; that the access issue, the control issue, the bottleneck issue, is very, very important. And I would offer two observations, by way of comment.

The Wall Street Journal, about 1 week ago, carried on the opinion page, a list of comments from industry leaders and various other people on these questions. And, right at the last one on the page, was William Baxter, the Reagan administration's Antitrust Division head who was in charge of the breakup of AT&T.

And he said, if I read him correctly, that there was a very serious concern about whether the regional Bell operating companies would be able to, in effect, create seven different AT&T's; and that we needed to be very, very mindful of this. This is 12 years after he initiated his efforts to break up AT&T. I think he was saying he did not want to see that all go for naught. That is what he said.

Senator KERREY. But if I set the RBOC's side by side with the computer industry for the last 10 years, I have got fewer people working for the RBOC's today than I had in 1984.

Mr. HUNDT. That is right.

Senator KERREY. But, look at the history of IBM, and consider whether or not we have the capacity to, with antitrust action, to do good things.

I mean, IBM, because they feared that Justice was going to break them up, licensed the microprocessor to Intel. They licensed

the operating system to Microsoft. That was not an FCC decision. They were responding to fears of antitrust action.

Senator LAUTENBERG. They were responding to fears of the marketplace, that they were going to lose their whole business.

Senator KERREY. Well, that is quite true. But I am saying that, Senator, they were responding to fears in the marketplace; they were responding to fears from the Department of Justice, as well, that was putting pressure on them.

And the net effect is that I now have two corporations, Intel and Microsoft, that have greater market value than IBM does. And we created lots of jobs, and we have driven down the cost of microprocessors; and we have driven down the cost of operating systems.

And now, Justice is looking at Intel and Microsoft. It has potential problems, as well. I mean, I look at that model and I see the number of jobs we have created. I see the advantages to the consumer, as a consequence. And it just—it gives me second thoughts about using any kind of a system where we try to manage this movement from monopoly to competition, using anything other than just straight antitrust action.

#### MANAGED COMPETITION

Mr. HUNDT. In brief, I would say that if we look at the personal computer industry and its tremendous growth, which was to some degree at the expense of IBM's hegemony in computers in this country, the key there—if I might offer my own personal observation, Senator, is that no one company stood between the inventor of the PC or the maker of the PC, and the customer. No one company blocked anyone who invented a PC from going out and marketing it to any customer.

And, because no one company had a bottleneck, then all the people with ideas for PC's were able to let all their ingenuity and all their creativity flow into their business; and we had hundreds of different companies who had opportunity to give customers a choice.

And if we had that situation in the local telephone market or in the cable market, things would be a lot easier. But that is not the situation. We have bottlenecks in the video market and in the local telephone market.

Senator KERREY. The point I am trying to make, Mr. Chairman, just has to do with whether or not there is a simpler approach to determining whether or not somebody is abusing their market share; if there is not a simpler way to do it? I do not know, I mean, I am not suggesting that I have reached a conclusion that there is; but I am just surfacing some real doubts.

I mean, I think there are more jobs, more economic opportunity, more solutions to health care education, governmental problems, that will come as a consequence of growth in the telecommunications market; and I do not want to do something to slow that down. I do not want to do something that is going to slow down that process.

And, as a consequence, I am challenging assumptions that I have been using to base my own policy on.

Senator HOLLINGS. Senator Lautenberg?

Senator LAUTENBERG. Thank you very much. Senator Kerrey could not be more right.

I chimed in, because IBM was forced by various consent agreements to open up their market. They had a service bureau division; they were only renting equipment. They were forced to go to the sales market. There were all kinds of things; plus, as the chairman here mentioned, the technology just overcame them. And I saw it firsthand, in my former iterations.

As a matter of fact, my company was offered 25 percent of MCI in its early stages. I do not remember the exact price; but I think it was something about \$30 million or \$40 million, to buy 25 or 30 percent. I knew the damn thing was not going anywhere, so we did not do it. [Laughter.]

We tried, we just could not get it together. But who was knowing? Few but, maybe, Mr. McGowan—may he rest in peace—had the vision to see what the possibilities were, to compete against the giants of the world. You talk about monopolistic practice? Well anyway, so there is hope out there for creating and inventing.

#### EXPANSION OF SERVICE TO NEW JERSEY

Mr. Chairman, one of the things I wanted to touch base with you on is, I come from New Jersey, as you know; and we are the ninth largest State in the country.

We are a State that produces, is third in tax production amongst the States of the country; a very highly technology-based, invention-based State, with pharmaceutical industry, AT&T, Bell Labs, you name them. One of the things that we suffer from is a lack of TV presence of our own stations.

We have one station. It is WWOR, in a very lucrative marketplace. And you talk about discriminatory pricing. If you want to buy advertising—even campaign advertising, and that is just an aside—that you get one-third of your investment in exposure. It is kind of lopsided, and I wonder, Mr. Chairman, whether or not there are opportunities to expand the spectrum in some way, without forcing everybody into purchasing dishes and that kind of thing.

Are there chances to get licenses, specifically geared toward servicing the State of New Jersey? How so? Can it be VHF, UHF? What are the possibilities, in your view, for expanding the opportunity there?

#### ANCILLARY USE

Mr. HUNDT. That is an interesting question. One of the opportunities for expanding business possibilities for broadcast, for example, is the notion of ancillary use of the spectrum, as we approach the high definition television question.

The Grand Alliance, the industry consortium that is coming to agreement on standards, should be—toward the end of this year and on into the spring of next year—bringing to the FCC various issues for standard setting. And we may well receive guidance from Congress before then on this particular question.

But it may well be that the broadcasting community in general will be able to look to ancillary uses of the spectrum, pursuant to part of our HDTV ruling. So that could help, for example.

And there are possibilities that such ancillary uses would include what they call dynamic scalability: the ability to send more than one channel. Whereas, today there is only one signal.

And so, for example, WWOR in Secaucus might be able to more completely provide local news coverage to different communities in New Jersey, if the dynamic scalability is viable and is otherwise consistent with the public purposes. That could well be a terrific thing for the people of New Jersey who—I know you are right, Senator—have long suffered from being too close to the major metropolitan areas that are not in New Jersey, and so, consequently, have not had the diversity of broadcast sources that many other States enjoy.

Senator LAUTENBERG. We will continue to pursue it. It is something that I am anxious to try to get to do. Mr. Chairman, thanks very much.

Senator HOLLINGS. Thank you. As I remember, Delaware was the first State; and they are the only State that still does not have a TV license.

Senator LAUTENBERG. If they give us one in south Jersey, we will take care of Delaware. [Laughter.]

Senator HOLLINGS. Thank you a lot. Senator Stevens?

Senator STEVENS. The chairman says I do not have Alzheimer's; I have "Sometimers." And this is one of those days. [Laughter.]

#### FUTURE REGULATION

I thank you for your courtesy. In our exchange of letters, as I told you, I do not intend to become a pen pal, but I am fairly worried about the legislation pending before the other committee that the chairman is chairman of and we both serve on. I do not want to go into too much of that right now.

I would rather use this time to go into the question of how much your people are tracking those people who are thinking like George Gilder is; for instance, that we may end up by regulating the industries that are on the severe decline, and not understanding the industries that are going into rampant expansion.

As you know, he postulates that both telephone and television are on their way down; and that the PC—particularly the multimedia type PC with the options that are available, and radio connections through the Internet concept or some similar concept—will wind up with the personal selection capability for each individual.

I am entranced by many of the things he is saying; particularly, Mr. Chairman, because I have a daughter in Kenai, AK, who is teaching first grade children how to run computers. And, by the time they come out of the eighth grade, they are totally computer capable now. That is not our generation; but the generation coming is going to be much more a user of computer services, and computer services that are available on a very wide scale, than any of the current ones.

Have you read any of this stuff, in Forbes and other places? Are we just in the process now of increasing regulation over the media, that we seem to be worried about cable over there, and television and telephone, without really seeing where the country is going?

Mr. HUNDT. Well, Senator, we certainly do not aspire to do that. For example, we eliminated—in one of the decisions we made just

a couple of weeks ago—certain regulations involving the cellular telephone industry.

We would hope to continue that process; and, if we are able, just by way of an example that is responsive to your question, if we are able in PCS to jumpstart real competition in mobile telephony, then we can get lots of choice for consumers. And we should be able to reduce, hopefully, all the way to zero, any regulatory burden on the wireless industry.

You and I, as you know, had the pleasure of participating in the first cellular telephone call, to Barrow, AK, the most northern point to which a cellular telephone call has ever been made.

But my view is, it would not be fair for the people in Barrow to just have one choice for where to go to get cellular telephones. You know, the right result here is for us to give them choice for multiple providers; and when they have got that choice, then the regulation issue becomes very minimal. We can back away entirely.

But I think we are going to need to do some things, as policy-makers; and I think that Senate Bill 1822 is an example of one of the things that needs doing, to help promote choice, so that we can get out of the regulation business and get competition into all of these markets.

#### SPECTRUM VALUES

Senator STEVENS. Well, I was the author of the spectrum legislation; and now it is reported to be worth an income of somewhere in excess of \$10 billion for the Government. And when Gilder says to you, "Do not bother. Do not bother, because the value is not going to be there," have you looked at that? You probably know better than I, what he is talking about.

But with the invention of the new radio concepts in broad band radio, and the interface with things like Internet and the fabulous growth of the Internet connections, he says, by the time you get there and we are all ready to sell spectrum, people are not going to be waiting in line as they were 3 years ago.

Is anyone over there now thinking about those things, and trying to say, "Is Gilder right"? He was very right in "Life After Television," I am sure you know, the book he wrote has almost come true.

Mr. HUNDT. He is certainly a very farsighted person. I had the pleasure of meeting with him and talking about some of these issues.

Senator STEVENS. And he is not alone.

Mr. HUNDT. He is not alone. But he is also not joined by everyone. What George has written about is pretty well known, I have found, in the community of people who are interested in bidding in PCS. They have taken into account what he has said, and they still seem willing and able to pay substantial sums for PCS licenses.

It may well be that what George Gilder was talking about relates to events that may occur in distant years; but between now and those distant years, we have a chance for terrific economic growth because of the auction legislation that you, indeed, are one of the parents of.

And that terrific economic growth could lead to 80, 100 million cellular telephone, mobile telephone PCS users in this country, be-

fore the events that Gilder has prophesied are demonstrated to be true or not true.

Senator STEVENS. I read Secretary Brown's speech, where he remarked about AT&T's prediction in 1980 that there would be 1 million cellular users by the year 2000. Of course, there are 24 million already.

And Secretary Brown made his point; but on the other hand, I am not sure anyone is out there listening to the fact that people may not be connecting through a telephone system to those handheld mobile telephones; that they will be back to radio, through their own PC at home.

Now, all I am saying is—and I understand, before I came in, you have asked that we support the concept of getting additional people—I personally believe that you, above all places in the country, ought to have more people. But I would hope some of those people would be joining those who are trying to see around the corners.

Because we seem to have the habit, in this country, of really getting down to the point where we are really regulating those people just about ready to go out of business. And if he is right, many of the things that my children's generation have taken for granted, their children's children will not want to even fool with.

It will be the same thing as my old profession, the dial radio that sits on my desk. It was a wonderful thing in 1935. Now, not too many people are using those.

And, if Gilder is right, we are going into, really, a revolution in terms of the basic forms of communication. And I would hope that we do not spend all our money selling spectrum, despite the fact that it was one of our ideas here, to people that, as I said, are going to go out of business; and not pay attention to the needs of the people that are trying to go out.

#### INTERNET

Let me just ask you this particular question: Do you have any relationship with Internet at all?

Mr. HUNDT. I beg your pardon?

Senator STEVENS. Do you have any relationship with Internet at all?

Mr. HUNDT. Yes; we are connected to Internet. In fact, we are getting 4,000 inquiries a week over the Internet, for information the FCC makes publicly available.

Senator STEVENS. Well, we all now have our press releases and public statements available on Internet; but you do not regulate it?

Mr. HUNDT. Regulate it? No; I beg your pardon; not directly.

Senator STEVENS. Well, they are signing up, what? Another, what? Something like 1 million people a month now?

Mr. HUNDT. Yes; the Internet, in many respects, uses the telephone network.

Senator STEVENS. I understand that, in many respects. But they also use a lot of other systems. And I am not suggesting that you regulate them, because I think it would be almost impossible, as I understand it. And I have got Internet in my house. The reason I have it is, my 12-year-old daughter wanted it.

Now, when you look at these things, I think that we may be on the wrong track. We may be on the wrong track of thinking so hard

about the evils of the Bell companies; and they may find that their net is going to be falling off very quickly, if Gilder and the other people are right. We ought to get those people from his institute in Seattle in sometime, Mr. Chairman, and listen to them. I think you had some people, at one meeting I was at, where he was just talking recently.

Last—as I said, I was not going to get into the overall business of the other committee, but I did introduce a title VII, or brought forth a title VII for the chairman's bill. And particularly, people from the West are very interested in it. Have you had a chance to look at that yet?

Mr. HUNDT. Yes.

#### CARRIER OF LAST RESORT

Senator STEVENS. I would hope that you and the Department of Justice would give us your views on that. I said, when you were before the other committee, how worried I am about the concept of the carrier of last resort which, today, Mr. Chairman, is established when an entity withdraws from serving a community that it is serving now, as I understand it.

Whereas, what we are looking for, as we find carriers, in this real competitive era we are coming into now, may well enter an area; and as a result of it, the existing carrier has to for economic reasons withdraw. And the question is, "Who is the carrier of last resort?"

Under the current concept, the FCC could keep the carrier that is there in place, and say he must continue to serve. But it has no right to deal with the new competitor coming in and saying, "You in fact now, because you have more than 50 percent of the business, you are now the carrier of last resort for the future. You are the one. If you withdraw, you have to continue service."

I do not know that we have ever gone to the concept of dealing with a competitive world, in terms of carrier of last resort. The carrier of last resort came out of the era of monopoly. And yet, if we are going into an era of competition, someone has to be the gatekeeper as people rush away from a failing area where the economies are going down.

And you are talking about my State, when you talk about that. The eras of heavy mineral development, of oil and gas exploration and development, of great fisheries' years, all of those now are going downhill; and they are leaving towns without basic economies. And we are worried about the adequacy of telecommunications service, and the quality of that.

I am running on at the mouth. But I tell you, the carrier of last resort, to me, does not mean just voice service, just quality of voice service going back to the turn of the century. It means the quality of service that is available in any other place. If they are going to be able to rebuild an economy, they have to have the full scale of quality services dealing with digital and all of the capability for data transmission that the very prosperous areas of the country have.

Now, I do not see anything forthcoming yet—with due respect—from your agency or Justice, saying how important are these things

to the future, as far as you are concerned. Are you going to address those?

Mr. HUNDT. They are very important, indeed. I think that they are completely within the scope of the flexible definition of universal service that is in Senate Bill 1822, that the chairman and I discussed, I believe, just before you came in.

Senator STEVENS. With due respect, that takes hearings. People have to hire lawyers, and come back and appear before the FCC and challenge one of these near-monopoly carriers, in order to get that kind of decision. That means the people, by definition, who are now in a failing portion of the economy have the burden of coming to get the decision.

Why should we not make that decision as a matter of policy here in Congress, if we are going to pass legislation like this and establish the principle that it would take you years to establish through decisionmaking in the FCC? Am I on the wrong track there?

Mr. HUNDT. You are certainly right. We have exercised oversight of this issue, in conjunction with the States, for many years.

Senator HOLLINGS. Senate Bill 1822, if you would yield, gives you that authority. The FCC has authority over the common carrier; but under Senate Bill 1822, they can extend it to any and all coming into that region, that responsibility of carrier of last resort.

Senator STEVENS. I understand that, and I congratulate you; it does. But it gives them the authority to do it, after very expensive proceedings; and by definition, the towns that are going to be suffering and want a carrier of last resort application, are the very places that are not going to be able to afford a long, 18-month, 2-year litigation.

By the time that comes around, then, we are in a position where the failing carriers have been ordered by you to stay in place and, by definition, service is deteriorating, the incoming highly competitive carrier is still high grading the business and enjoying a great bottom line.

#### DEFINE UNIVERSAL SERVICE

Now, somehow or another, I think we ought to lay down a marker in Congress as to who is the carrier of last resort in most circumstances? How do you define universal service, in terms of the quality of service? What does it mean? Does it mean state-of-the-art telecommunications and availability of multiple media service concepts?

Today, I think, under the chairman's bill, you could, in fact, on a case-by-case basis establish in time all of the things that we could write, if we wanted. Now, that is—I am seeking for us to lay down some; and they are not that specific. But they are more specific than the chairman's universal service concept, and the articulation of your policy.

And I would urge you to give us a chance to have your views and Justice's views. Justice did testify on title VII.

And again, that is not the subject of the hearing today, but I took advantage of it to come over and talk to you about it. So, thank you very much, Mr. Chairman.

## PCS AUCTIONS

Senator HOLLINGS. The PCS auctions, now, you are reconsidering the PCS rule. Does that delay the auctions? The deadline is August. It is just 3 months away.

Mr. HUNDT. No, sir; the auction itself, three things must take place: We must finish the reconsideration of the allocation; then we must set the rules for the auction; and then, we have to conduct the auction.

Senator HOLLINGS. And you are going to do all of that, before August?

Mr. HUNDT. We are going to do the first two things much before August. But for the broad band PCS that we are speaking about, the large auction, we are going to have to put out a request for a contractor to come in and help us with conducting the auction; and that is going to be a procurement process, which is underway right now, which probably will not be able to be completed under the procurement regulations until toward the end of the year.

The auction that will be conducted this summer is of narrow band. Now, with respect to narrow band, we have already finished the allocation. We have already finished deciding the kind of auction——

Senator HOLLINGS. The broad band will not take place until next year?

Mr. HUNDT. It will begin at the end of this year. It may continue on to next year, because there are so many different markets and licenses to auction; but it will commence toward the end of this year. The narrow band, the auction itself, will be conducted this summer.

## CABLE RULES

Senator HOLLINGS. While we are into some of these things, I want the record to show that you are doing. There has been an environment created in the editorialized, so-called news, that by issuing cable TV rules that somehow the FCC has arbitrarily come in and stultified any kind of development of competition, or the development of an information superhighway.

Since you were not here, I did not cosponsor that cable TV bill, in its initial stage. I had always been with those folks. What caused me to vote in support of those particular regulations is that the prices were going up in a monopolistic fashion, three times greater than inflation, and it was proved, that, categorically; and it took a long time for the FCC to get a decision out of us.

It took 4 years to get that bill passed; and then when it did, it was just a little tap on the hand, and it did not really do what you have done. I think you have acted properly under the direction of the Congress to run a fair FCC, starting in the rule, the rules and regulations; you are fulfilling the directive as enunciated by Congress after 4 years of hearings and debate. So let that be on the record.

With respect to television violence, we can protect children. It is a compelling State interest. We have got that cable TV bill. Can you determine what is the least restrictive means of protecting

children? That is what the court says we have got to do. And do you think the FCC can do that?

Mr. HUNDT. I think we could do that.

#### OFFSETTING COLLECTIONS FROM FEES

Senator HOLLINGS. With respect to the fees, now. Last year, we said, "Let us raise fees." So that was to yield \$60 million; and in 1995, I think, some \$95 million.

As I understand it, the FCC has not yet collected any of those fees this year; and we are only dealing with estimates at the present time. What is your estimate of the collections this year?

Mr. HUNDT. It is still \$60 million.

Senator HOLLINGS. All right. We are on target there. How about for next year, on those fees? Is it \$95 million?

Mr. HUNDT. That is right.

Senator HOLLINGS. All right, we are going to have a tough time getting those moneys in; much less any kind of additional moneys for immigration. The exemptions that we had in the appropriations, a number of bill language restrictions regarding minority and women ownership of broadcast licensing; reserving the VHF channels for educational television.

And you are proposing that we delete those provisions?

Mr. HUNDT. I am sorry. You have got me there, Senator.

Senator HOLLINGS. You have left them out, in your request. They should not be deleted. They have been in there since 1987, for the past 7 years.

It seems like a Democratic administration under Clinton-Gore would be asking for those kind of things, rather than deleting them.

I can see, you are not quite sure.

Mr. HUNDT. You will have to indulge me on that; and I will respond to you in writing.

[CLERK'S NOTE.—The information is contained in the response to Chairman Hollings' questions for the record.]

#### EBS STANDARDS

Senator HOLLINGS. You are updating standards for the national emergency broadcast system, EBS. Now, we have had that ongoing, in South Carolina; and we have been waiting for the FCC to make its decision. That is vital. With Hurricane Hugo that we had, we got them all together; they got it all worked out, and we are just waiting on the bureaucracy, the FCC. What is the holdup?

Mr. HUNDT. It should be out pretty soon. The holdup has not been that it has been held up, as much as we have been meeting with small broadcasters and cable operators; because we are concerned about their concern that they not face extra costs that are really beyond what they can bear.

In terms of the big cable operators and the big broadcaster, this is not so much of an issue. But if we are going to have a one-size-fits-all system, where we are including small broadcasters and small cable operators who, of course, are often the only providers in their communities, we do, I think, Mr. Chairman, need to listen to their concerns about cost.

We are coming pretty close to the end of that process, and I am very hopeful that we will be able to find the right balance here, between the emergency needs and the costs.

Senator HOLLINGS. When do you contemplate that being the case?

Mr. HUNDT. Within the next 1 to 2 months, we should be finished with this.

#### ADDITIONAL COMMITTEE QUESTIONS

Senator HOLLINGS. Very good. Well, we appreciate your appearance here today.

I have got some other questions that we will want to enter into the record.

Mr. HUNDT. It is very kind of you to invite me.

[The following questions were not asked at the hearing, but were submitted to the Commission for response subsequent to the hearing:]

#### QUESTIONS SUBMITTED BY SENATOR ERNEST F. HOLLINGS

##### TELECOMMUNICATIONS REWRITE—BUDGET IMPACTS

*Question.* Your testimony indicates that various proposals to overhaul the Telecommunications Act will have budgetary impacts on the Commission.

Could you be specific? What are your estimated resource impacts?

*Answer.* Several of the pending legislative proposals would have far-reaching implications for the U.S. telecommunications industry, particularly proposals that are intended to promote competition in the markets for local telephone and video services. If enacted, these bills could require the Commission to ensure that competition develops in these markets in a manner that is consistent with the public interest, convenience, and necessity.

As presently drafted, the various proposals would assign to the Commission a number of specific responsibilities, including the commencement of a substantial number of new proceedings, such as Federal/State Joint Boards, Notices of Proposed Rulemaking, adopting regulations, conducting formal inquiries, and adopting Reports and Orders, often under very aggressive statutory deadlines. Since 1990, the number of Full Time Equivalent (FTE) employees has declined by almost 500, excluding positions added as a result of the 1992 Cable Act. We expect that to effectuate the goals of these legislative proposals, the FCC will need to expand substantially its present resources.

We recognize that the pending legislative proposals could change. As the direction of the legislation evolves, we will be in a better position to refine the FCC's resource requirements. Likewise, once the legislation is enacted, we anticipate adjusting the estimated resource needs to include the actual responsibilities assigned to the Commission.

##### FCC COMPUTER MODERNIZATION

*Question.* Staff tells me that the FCC has finally entered the telecommunications super highway—and that you've provided staff with personal computers.

Could you please provide an overview of the information management requirements for the Commission?

*Answer.* The Commission's information resources management requirements focus primarily on two areas: improvement of FCC employee productivity and support for our authorization of service, or licensing, function.

The Commission is improving the productivity of its employees by providing them with a full range of office automation tools and a modern computer architecture. Previously most employees only had access to word processing and limited electronic mail functions. Now, in addition to word processing and electronic mail, virtually all employees have access to spreadsheet, graphics, electronic forms, database, calendar, scheduler, and Internet software. These tools have enhanced communication among employees and with other agencies and external entities, facilitated employees' manipulation and presentation of information, and helped employees to complete tasks faster. In addition, our new client-server architecture has increased em-

employees' access to Commission regulatory databases and will make document image retrieval possible. As the Commission makes greater use of optical imaging for the public's filings, enabling employees to retrieve these document images at their workstations will increase their productivity.

The Commission processes over one million licenses per year and collects millions of dollars in fees. Automated information technology provides critical support to these authorization of service functions. We expect to improve our speed of license application processing and access to the associated databases because of the conversion of our licensing databases from an obsolete mainframe computer to a modern distributed database architecture in a client-server environment. Our new computer environment will also facilitate the filing of electronic license applications by the public. Electronic filing will save time for both the Commission and the public.

#### APPROPRIATIONS EXEMPTIONS

*Question.* The FCC's Budget proposes to delete a number of bill language restrictions carried in annual appropriation bills regarding minority and women ownership of broadcasting licenses, and reserving VHP channel assignments for educational television.

Why is the Democratic Clinton administration proposing that we delete these provisions?

*Answer.* The fiscal year 1995 FCC Appropriations Language format which appears in the President's Budget, is consistent with guidelines established by the Office of Management and Budget (OMB) and referenced in the OMB Circular A-11, Preparation and Submission of Budget Estimates. It is not the intent of the FCC to disregard the restrictions placed in the Appropriations Language, but rather to follow the instructions of OMB. The Appropriation Language edits were intended to clarify the budget and monetary request for the Commission without involving issues of policy. This format criteria has been utilized by prior administrations for over a decade.

#### NEW FCC FEE PROGRAM

*Question.* Were you consulted on the Administration's decision to fully fund the FCC with user fees this year?

*Answer.* The subject was discussed in informal meetings with OMB officials.

*Question.* We created the new user fee in the 1993 reconciliation bill in order to provide the FCC with budgetary resources—not to fund other agencies, like this proposed payment to several states for immigration. Changes in licensing charges comes under my authorization committee—the Commerce Committee. What specific charges do you intend to propose to raise collections by another \$72.4 million this year?

*Answer.* We would not raise collections in fiscal year 1994. The changes which would have to be made to the fee structure are dependent upon the determination of Congress as to the extent the Commission should be funded by fees. Upon the resolution of the issue, we will be in a better position to determine the degree collections have to be raised.

*Question.* As I understand it, the FCC hasn't yet collected any fees—and what we have been dealing with is estimates. Is that correct? If that is so, then what is your best estimate of collections this fiscal year?

*Answer.* That is correct. We are dealing only with estimates at this time. We expect to collect approximately \$60 million this fiscal year.

#### VIDEO DIAL-TONE

*Question.* The telephone companies have submitted several applications to install fiber optic cables to supply "video dial-tone" cable service. Many of these applications have been pending for some time, and the FCC is considering approving some of them. But the FCC has not adopted any rules to protect consumers from having to pay for this expensive technology. When is the FCC going to adopt rules for the deployment of these fiber optic cables for video dialtone?

*Answer.* The Commission presently has in place a comprehensive set of safeguards designed to protect against anticompetitive behavior, including improper cross-subsidization, by local telephone companies that seek to offer video dialtone services. In the Video Dialtone proceeding, the Commission concluded that its existing safeguards and rules should effectively protect against anticompetitive conduct by local telephone companies providing video dialtone services. These rules consist of a comprehensive system of cost allocation, accounting, reporting, and separations rules aimed at ensuring that local telephone companies do not improperly cross-subsidize or engage in other anticompetitive practices.

In addition, the Commission required each local telephone company seeking to offer video dialtone to obtain authorization pursuant to Section 214 of the Communications Act by submitting an application that describes its video dialtone proposal. The Commission stated that it would closely monitor the operation of its existing safeguards and rules in the context of the Section 214 proposals and impose additional safeguards, if necessary, before authorization is granted. The Commission also is currently considering petitions for reconsideration of the Video Dialtone order and a joint petition for rulemaking that address the Commission's video dialtone safeguards.

Presently, approximately 18 applications are pending before the Commission seeking authorization to construct and operate video dialtone facilities. The majority of these applications have been filed since December, 1993, and virtually all have been the subject of extensive public comment, including numerous petitions to deny the grant of authorization. Opponents of the video dialtone proposals generally claim that the applications fail to comply with various aspects of the Commission's video dialtone rules and policy, including our regulations governing the allocation of video dialtone costs. Because implementation of its video dialtone policy is a priority for the Commission, the Common Carrier Bureau reassigned resources to work on the pending applications and petitions for reconsideration of the Commission's video dialtone order.

#### EQUAL EMPLOYMENT OPPORTUNITY RULES

*Question.* The Commission recently issued a Notice of Inquiry seeking comments on whether emerging technologies should be subject to Equal Employment Opportunity rules. I think it is important that we promote diversity in all aspects of the communications industry. What do you hope to learn from this inquiry?

*Answer.* Through the enforcement of the EEO rules for broadcasters and cable entities, the Commission has sought to achieve programming diversity that serves the needs of all segments of the population. In accordance with this goal, the 1992 Cable Act expanded the scope of these EEO provisions to other entities that exercise control over programming provided directly to the public, such as multichannel multipoint distribution services, direct broadcast satellite services and certain television receive-only satellite program distributors.

At this stage in the development of the communications industry, however, the Commission is witnessing the convergence of communications technologies to such a degree that the functional differences between cable operators and common carriers are becoming increasingly blurred. Simultaneously, Congress has manifested its concern with providing broad access to new telecommunications technologies. Specifically, section 309(j)(4)(C) of the Communications Act, which authorizes the Commission to conduct competitive bidding for new spectrum based services, directs the Commission to promote economic opportunity for businesses owned by minorities and women. Given these circumstances, I believe it is essential to ensure that telecommunication service providers maintain internal employment policies that reflect their commitment to the provision of communications services in a non-discriminatory manner, and to the enhancement of job opportunities for all segments of the population. In an effort to address this concern, our recent EEO Notice of Inquiry seeks to assess whether and, if so, the ways in which our EEO policies might be expanded to entities other than broadcasters, cable operators, and multipoint video program distributors.

#### COMSAT

*Question.* It has been reported that COMSAT wants to pursue privatization within INTELSAT and Inmarsat. What are your views on the direction in which COMSAT is steering these organizations?

*Answer.* These organizations need to explore and follow a path that will make them more commercially efficient in a growing competitive environment and ensure fulfillment of certain public service obligations. This path may ultimately lead to some form of privatization of Inmarsat and INTELSAT.

The U.S. government, including the FCC, as part of its statutory mandate, is currently exploring the implications of various forms of privatization of both Inmarsat and INTELSAT. We should move forward quickly with this review which should include examination of domestic policy implications, such as COMSAT's current status as the exclusive U.S. investor in Inmarsat and INTELSAT and the sole provider of space segment capacity. It is important that there be an opportunity for public participation in this process.

## PERSONAL COMMUNICATIONS SERVICE

*Question.* The FCC adopted rules to issue licenses for personal communications services (PCS) last year. The FCC is facing a Congressional mandate to auction these licenses beginning in 1994. But the Commission has lately indicated that it is reconsidering all of its PCS rules. Some are concerned that this delay could cause harm to the industry. When do you expect to conduct auctions for PCS?

*Answer.* There are different classes of Personal Communications Service (PCS). In particular, we have two different proceedings that address "narrowband PCS" and "broadband PCS" respectively. The reconsideration and auction rule for narrowband PCS have been adopted and the auction for these 3,554 licenses will begin this summer. The broadband auctions are scheduled to begin by the end of the calendar year. The primary factors which are having an impact on the scheduling of the broadband auctions are the requirements of the competitive procurement process necessary to obtain the services of auction specialists, and the need to provide potential participants ample notice following the Commission's rulemakings to prepare for the auctions and arrange financing. The Commission is moving forth with to implement the Congressional Mandate enacted in August 1993.

## QUESTIONS SUBMITTED BY SENATOR DALE BUMPERS

## PERSONAL COMMUNICATION SERVICES (PCS)

*Question.* I am very concerned about one aspect of the FCC's recent decision on spectrum allocation for the PCS industry. In 1992, Senator Hollings and I added language to the Commerce, State, Justice Appropriations bill which would have required the FCC to preserve indefinitely the priority of public safety agencies on the bands they currently hold on the 2 GHz band of the radio spectrum. That language was unequivocal and it was approved by voice vote. The FCC then adopted similar language in its proposed rule. Therefore, we allowed the language to be deleted in conference, though the House would surely have accepted it. It was clear to us that the Commission had acted in accordance with the clear intent of Congress and the issue was settled. Last month I was surprised to learn the Commission had completely changed its position on this issue and now preserves priority for public safety users on the 2 GHz band for only five years, after which they can be booted off the band against their will, regardless of the effect on public safety. Why?

*Answer.* Throughout its emerging technology proceedings the Commission has recognized that public safety entities face economic and operational considerations distinct from commercial microwave operators. Initially, the Commission exempted public safety facilities from any required relocation.<sup>1</sup> At that time the Commission believed that frequency overlay technologies that were under development would allow for some frequency sharing between the 2 GHz incumbents and the new providers of new emerging technologies. Therefore, the Commission believed that allowing public safety to remain in the 2 GHz band indefinitely would not prohibit or delay the implementation or development of new technologies in the band.

Upon reflection, however, the Commission concluded that it underestimated the difficulty that emerging technologies, such as PCS, may have in permanently sharing spectrum with the incumbent public safety licensees. It now appears that overlay technologies are not as promising as originally hoped and that there is little possibility that this type of frequency sharing is feasible for PCS purposes. While we believe that sharing based on avoidance will allow for both incumbents and new providers to use the 2 GHz band, we are convinced that as PCS demand increases this sharing will limit the development of emerging technologies if all public safety operations are allowed to continue operating in the band indefinitely. Especially where there is a large number of public safety facilities in populated areas, PCS service will be limited unless public safety licensees relocate. Further, distribution of many planned unlicensed PCS devices will be precluded unless all incumbents are required to relocate from bands designated for unlicensed use, because these devices are nomadic in nature and therefore unable to share spectrum with incumbent operations without causing interference. Additionally, we concluded that to have allowed all public safety facilities to remain in the band indefinitely, even when there would be no disruption to their communications and no cost to them in relocating, would have unreasonably imperiled the objective of providing spectrum for emerging technologies.

<sup>1</sup>The Commission later clarified that the public safety licensees eligible for the exemption is limited to those licensed under certain rule parts and for which the majority of communications is directly for police, fire, or emergency medical services.

In the context of the overall regulatory scheme, the Commission concluded that eliminating the grandfathering for public safety licensees was consistent with the intent of Congress that public safety operations be fully protected while adequate spectrum be provided emerging technologies such as PCS. Specifically, the Congressional intent appeared to be that the Commission ensure that public safety incumbents not suffer any degradation of service; that new facilities provide the same grade of service and reliability; and that any relocation be at no cost to the public safety licensee.

To ensure that the development of emerging technology is not impeded, the Commission devised relocation scheme specifically for public safety entity. Under the Commission's rules, the public safety entity is required to relocate only if all the expenses of the relocation are paid by the new emerging technology licensee, the new facility is comparable to the existing public safety system, and there is no disruption in service.

Moreover, public safety entities will have five or more years to negotiate agreements with emerging technologies providers. The transition period is bifurcated to ensure that all incumbents will have a chance to negotiate voluntary agreements. Specifically, the first period is a four year voluntary negotiation period which will begin in the immediate future when the Commission receives applications for PCS licenses. The second period is a one year mandatory negotiation period that will begin after the first period and then only when an emerging technology licensee needs the spectrum and requests relocation. For example, if an emerging technology provider does not need the spectrum until the year 2005, then the emerging technology provider would not request relocation until that time and the public safety licensee may continue using the band on a primary basis even though this is 10 years after the initial period commenced. Further, the entities still will have a one year mandatory period to negotiate a relocation agreement. The first negotiation period is two years longer than that provided other incumbent licensees. This policy provides an orderly transition to emerging technologies without disruption or cost to any relocating public safety licensee.

*Question.* Was there any discussion at the Commission, in reaching this decision, of the fact that you were clearly acting contrary to the intent of the Congress and in contradiction of the plain understanding of all concerned that public safety would be indefinitely protected?

*Answer.* The concerns of Congress, and specifically the provisions of the Senate amendment, were carefully considered during the Commission's deliberations. Our understanding of the Congressional concern is that the communications of all interested fixed microwave operations at 2 GHz, particularly public safety, must be protected; that the new provider should bear any burden of eliminating any harmful interference; that the Commission should permit voluntary negotiations between incumbents and new providers; that any mandatory relocation of commercial incumbent facilities not take place for eight years after adoption of rules; that no relocation adversely impact the service provided or the entity owning that operation; that the Commission retain jurisdiction to resolve all remaining disputes; and that the public safety operations be fully protected, both financially and technically.

In adopting rules to allocate this spectrum for emerging technologies, the Commission broadly complied with the intent of Congress as it was understood. As mentioned earlier, the Commission provided a regulatory framework that allows the 2 GHz spectrum to be shared by new services and existing services. The rules provide new licensees with access to 2 GHz spectrum in a reasonable timeframe and, at the same time, prevent disruption to existing 2 GHz operations and eliminate any economic impact on the existing licensees.

Where both services cannot share the 2 GHz spectrum, the rules protect incumbent operations. When clear spectrum is required, a new licensee can force public safety entities to relocate only if it provides facilities that are technically equivalent to those being replaced and that fully support the communications requirements of the existing licensees. All relocation costs will be paid by the new licensee. This procedure protects the integrity of all existing public safety operations at 2 GHz. The Commission's decision complies with the broad intent of Congress that no adverse effects be felt by any public safety entity.

*Question.* When public safety agencies have communications problems the consequences are measured not in dollars but in human terms and risk to life and property. How can this process of forcing public safety agencies off the 2 GHz band be carried out without substantial disruption and possible interruption of service?

*Answer.* To ensure that there is no disruption to service, the Commission's rules encourage agreements among the parties themselves that comprehensively address all the details of the relocation. The Commission concluded that this is the best means to guarantee that the operations of the existing licensees are fully protected.

Should the parties not conclude an agreement, relocation will not be required until the expiration of a four-year voluntary negotiation period and an additional one-year mandatory negotiation period. These periods have not yet begun. The four-year period commences only when the Commission receives license applications for the frequencies in question. To ensure that all parties are aware of this date, the Commission will issue a public notice specifying it. After the four-year period has expired, the one-year mandatory period may be initiated when an emerging technology licensee requests negotiation in writing. This might be immediately after the four-year period, or it may be years afterwards. If, after this additional year an agreement is not reached, the new licensee may submit a relocation plan to the Commission and request that it order relocation. Such a plan must ensure that no disruption will occur to existing operations and that all costs and services, including new equipment and necessary facilities, are provided free to the fixed microwave operator. In addition, the new facility must provide fully equivalent communications capacity with the same or better reliability. Finally, if for any reason the facilities prove inadequate in operations, for one full year the relocating operator may return to its original system.

In summary, the new licensee must:

- Guarantee payment of all relocation costs. Relocation costs include all engineering, equipment, and site costs and FCC fees, as well as any reasonable additional costs.
- Assure relocation must be to a fully comparable facility.
- Assure that the new microwave (or alternative) system must be fully built and tested. All activities necessary for placing the new facilities into operation, including engineering and frequency coordination, must be completed before the relocation can be required.
- Assure that should the new facilities in practice prove not to be equivalent in every respect, within one year the public safety operation may, at the new licensee's cost, relocate to its original facilities and stay there until complete equivalency (or better) is attained.

*Question.* I read about this in the newspaper, as a fait accompli. The slightest glance at the record of the Senate debate on this issue would have made it clear that I took the lead on this matter and that I was very concerned about it. Why wasn't I notified of this action or given an opportunity to comment on what I believed to be a settled question?

*Answer.* The staff of the Senate Commerce Committee's Subcommittee on Communications was informed that the Commission was contemplating altering the treatment of public safety entities and raised no significant objections to our doing so. Unfortunately, the Commission's staff did not consult with your staff, and I apologize for this oversight. I have instructed the staff to make every attempt to ensure that your office is fully informed of all decisions in which you are interested.

*Question.* On March 8 a journalist asked FCC Chief Engineer Tom Stanley why the FCC had changed its position on public safety relocation after it had reached an apparent understanding with Senator Hollings about his concerns, the same concerns I had raised. He replied that Senator Hollings' concerns were "far broader" than public safety, that "his concerns were the general incumbency situation \* \* \* but public safety having no unique role in that analysis." He went on to say "the very important nature of public safety services is that they in a sense be as minimally disrupted as possible, perhaps no disruption versus prompt initiation of personal communications. I think that particular calculus we have reevaluated."

Mr. Stanley's recollection is at odds with the complete record, but my question is this: hasn't the Commission reevaluated the importance of public safety concerns simply because they would in some small way impede the policy objective of full deployment of personal communications services and some other technologies? Doesn't this represent a clear judgment that those economic and policy objectives are more important than preserving the effectiveness of the communications component of the public safety? In view of your obligation to serve the public interest, are those proper priorities?

*Answer.* As described above, the Commission's rules assure the continued effectiveness of public safety communications. The Commission requires that public safety entities asked to relocate their operations be provided the same or better capacity and system reliability without disruption to their communications and at no cost to them. As an additional safeguard, within one year of any relocation, the public safety operator can return to its original system at no cost to itself, if in actual operation some aspect of the new system proves to be insufficient. There will be no disruption to public safety communications; on the contrary, in many if not most situations, public safety operations will be improved significantly and will receive new up-to-date digital equipment to replace aging analog equipment. In return, spectrum

will be made available to support new technologies and services that are vital to our national infrastructure, our economy, and our continued world leadership.

*Question.* Under the current FCC proposal, those private interests that have public safety users ordered off the 2 GHz band will be obliged to pay the expense of their move to a higher band. How will it be determined when that obligation has been met? Who will make that determination? It's not hard to imagine a real tragedy resulting from only the smallest disruption in public safety communications. What recourse will public safety agencies or the public have if things go wrong? What recourse will be available to citizens who are harmed as a result of those disruptions?

*Answer.* The requirements of each particular system and operator are different, and our rules encourage the parties to conclude voluntary relocation agreements in which the parties themselves establish their own process and requirements. We believe that in most instances this voluntary process will work well. For example, organizations representing both sides of the relocation issue have scheduled or held conferences to discuss details of negotiating relocation agreements. However, if disputes that cannot be resolved by the parties themselves do arise, the Commission will resolve the issues after established negotiation periods have expired. As noted above, if incumbents are forced to relocate, they will have one year to test out the new system to ensure that it is equivalent in every respect to their original facility. If the new system is not equivalent, they may move back to the original facilities and stay there until complete equivalency (or better) is attained. We believe that these protections ensure that public safety licensees' new systems will be equivalent to their existing systems and that citizens will not be harmed as a result of our actions.

*Question.* You have made clear the FCC's policy of promoting the deployment of PCS systems as quickly as possible. Is the FCC in a position to command the confidence of public safety users, whose presence on the band is viewed as an obstacle to deployment of the 2 GHz band, that it will be a completely fair arbiter of what constitutes full coverage of the costs of moving a public safety user off the band?

*Answer.* As noted above, the Commission has strongly encouraged parties to conclude voluntary agreements, but if agreement cannot be reached, the parties may bring the case to the Commission. The Commission has a good relationship with the public safety communications interests, and given that the rules under which specific cases would be decided are clear—no cost to the fixed microwave provider, fully equivalent facilities that are tested and proven during a one-year period of actual operation—the interested parties will have confidence in the Commission's decisions. Indeed, initial reaction of the fixed microwave community to these provisions has been that the rules sufficiently protect their interests.

*Question.* Before March 8, 1994 the previous rule was in place, indefinitely "grandfathering" incumbent public safety users of the 2 GHz band. Up to that time the facts hadn't changed. Why was that policy abandoned before it was ever tried? Why was it changed without any opportunity for public comment?

*Answer.* Upon reconsideration, the Commission concluded that it had underestimated the difficulty PCS will have in permanently sharing spectrum with incumbent fixed microwave licensees. This is particularly true for "nomadic" unlicensed operations. An example of a "nomadic" unlicensed device is a device that permits small computers such as "lap-tops" or "PC's" within the same immediate area to communicate with each other. Unlicensed PCS advocates consistently have argued that their operations require clear nationwide spectrum. The commenting parties included Apple Computer and the Unlicensed PCS Ad Hoc Committee for 2 GHz Microwave Transition and Management (UTAM).

The Commission also concluded that its process for relocation fully protected the communications and facilities of the fixed microwave users where there is actual, not just theoretical, demand for the spectrum. As indicated above, in many cases fixed microwave users will obtain improved communications through this process by replacing aged analog equipment with new digital equipment at no cost to themselves. In fact, the Commission and the parties recognized the potential for taxable gain for incumbent fixed microwave parties from this process, and the Commission authorized tax certificates to facilitate relocation by permitting deferral of any taxes owed on the gain represented by the increased value of the new equipment. Further, the bands identified for relocation currently support fixed microwave operations over equivalent distances with comparable reliability, including those of public safety operations. Given the conclusive evidence that relocation can be accomplished reliably, and that the introduction of new communications services that would benefit the public could be precluded unless clear spectrum could be obtained, the Commission provided for long term relocation subject to the safeguards already set forth in its rules. These safeguards include a one-year period after the relocation for proving the

equivalency of the communications and the ability of parties to invoke Commission consideration of disputed issues in specific cases.

*Question.* Although Apple Computer and Rolm had criticized the first Report and Order, the record indicates that the Commission took this action on its own motion, without any formal request from any party. PCS advocates and the public safety community were satisfied with the previous arrangement. Who was the Commission trying to serve by making this change?

*Answer.* As noted above, a number of parties addressed the difficulty of operating on encumbered spectrum. Given that no harm could come to the communications of the public safety operations subject to relocation, the Commission concluded that it must do more to ensure the availability of spectrum to new entrants to ensure its viability.

*Question.* In his separate statement accompanying the Opinion and Order, Commissioner Quello declares that the public safety community should have been apprised of this change and then goes on to say that it might be feasible in rural areas for public safety agencies and emerging technologies to share the band. Commissioner Barrett raises similar concerns. Why can't some accommodation be made in the rule for rural areas where spectrum sharing might be possible?

*Answer.* Accommodation for sharing has been made where spectrum demands are not mutually exclusive. Sharing will occur in some areas for the indefinite future. Under the regulatory scheme adopted by the Commission, public safety operators will be required to relocate only if the spectrum actually is required for new service in that specific area. Whether to request relocation is an option of the new provider. The Commission does not expect frivolous relocations to occur, because the new provider must pay all costs associated with the relocation and guarantee the comparability of the new system. In areas where new service providers do not require all of the available spectrum, which we anticipate is especially likely in rural areas, incumbents may remain in the band indefinitely. Under all circumstances, however, no public safety licensee may be required to relocate without a minimum one-year negotiation period to address details of the relocation. For example, if an emerging technology provider needs the spectrum in 2005, an affected public safety facility will have the benefit of the mandatory one-year negotiation period beginning at the time when the request is communicated to the fixed microwave licensee.

*Question.* The Commission has granted "pioneers' preferences" to two PCS providers on the basis of the spectrum sharing technologies they have developed. How is that practice consistent with the Commission's position that sharing of the 2 GHz band is not a viable option?

*Answer.* Sharing may be crucial to the start-up of new services during the first three to five years while necessary relocation of existing facilities is being accomplished. At a recent Commission staff hearing on PCS issues held on April 11, 1994, parties emphasized the importance of initiating service within the next year or two. The record indicates that in many instances the ability to share spectrum while pursuing relocation of incumbents will be important, particularly in the higher-demand urban areas. In the longer term, sharing capabilities may delay indefinitely or even eliminate the need to relocate fixed microwave facilities. The Commission's award of a pioneer's preference for developing sharing technologies, however, does not undermine our view that, especially in areas of dense population, long-term sharing of the band may impede the introduction of new technologies and services. The amount of clear spectrum needed by new providers will depend upon the demand that develops for their services and will vary from area to area. The Commission adopted a flexible approach that encourages sharing to the maximum extent technically feasible, while recognizing that because of expected capacity demands sharing on the long term is unlikely in the most populated geographical areas.

*Question.* The arbitrary selection of a five year transition period seems inadequate, especially since there can be true arms-length negotiation only during the first four years. Why five years? Why not ten or twelve or more? Wouldn't freely negotiated deals be likely to occur in the early years?

*Answer.* We believe that the length of the transition period is balanced by other protections provided the incumbents. In past proceedings we have provided somewhat longer transition periods, but in those cases the incumbents were responsible for relocating themselves including all cost. Further, as noted above, none of the transition periods has begun to run. While the first four years is fixed from the time that an application for license is filed for the spectrum at issue in a specific case, the one-year mandatory negotiation period begins only (a) after the initial four-year fixed period, and (b) a new licensee initiates the request to the fixed microwave operator. While licensing of PCS is expected to begin later this year and service to commence next year, in some areas spectrum will be shared, while in others fairly rapid relocation of incumbents will be necessary. Further, as demand for PCS serv-

ices increases, the necessity for relocations is likely to increase. There is a great disparity in requirements from market to market and from one area to another that is difficult to address efficiently on the broad national level. We therefore have adopted an extended transition period of five years for public safety operations. Other licensees will have a minimum of three years. As you note in your question, one might hypothesize voluntary agreements can be expected in less than four years in those cases in which negotiations are initiated immediately, but the Commission preferred to provide an extended negotiation period to public safety licensees so they will have ample time to negotiate and conclude voluntary agreements.

#### QUESTIONS SUBMITTED BY SENATOR J. ROBERT KERREY

##### TELECOMMUNICATIONS SERVICES FOR EDUCATIONAL INSTITUTIONS

*Question.* How can public policymakers establish incentives for all competitors to wire and connect schools, homes and libraries with educational technology and products?

*Answer.* I believe that by promoting effective and vigorous competition throughout the telecommunications industry, public policymakers can foster the deployment of advanced educational technology and services to all Americans. Competition generally stimulates service and technological innovation, fosters lower prices and costs, and improves service quality. Through competitive policies, policymakers can create incentives for competitors to provide these public benefits while ensuring that universal service remains a cornerstone of our national telecommunications policy.

As you have pointed out, the students of today are the citizens of tomorrow. Currently, there are approximately 45 million students in grades K-12 in this country. I believe that telecommunications industry competitors recognize that the values, education and technological aptitude that our students obtain will be the future strength of our nation. Presently, there are numerous efforts underway to serve the educational and technological needs of our schools. For instance, approximately 60 percent of American schools have received coaxial cable connections and the Cable in the Classrooms project now permits roughly 34 million students in 63,000 schools to access cable programming. Likewise, many telephone companies, including Pacific Bell and Bell Atlantic, have initiatives to enhance the ability of students and teachers to access information through distance learning and other educational applications.

As competition increases throughout the telecommunications industry, public policymakers must also be mindful of the evolving nature of markets and technologies in pursuing universal service objectives. While universal service policies have traditionally focused on making voice telephone service generally available, the pending Senate and House legislation recognizes that educational and other institutions may also have a role in the advancement of universal service goals. Further, as competition emerges, traditional universal service policies must be adapted to ensure that all competitors are obligated to contribute equitably to attaining the universal service objectives. I support pending legislation that would give the FCC broad regulatory flexibility to address this critical area in the future.

*Question.* Market demand for advanced telecommunications services will increase as more people have the capacity to communicate with these new media. As we increase the demand for advanced telecommunications services, the average costs of these services will go down, making them more affordable to everyone. All of these factors must be an integral part of any cost-benefit analysis in determining public policy.

I'd appreciate your views on the role that policymakers can play, if any, in establishing policies that encourage all telecommunications carriers to provide telecommunications services to educational institutions at affordable rates.

*Answer.* In general, policymakers can act to promote competition among providers of telecommunications services. Competitive markets foster lower prices, technological innovation, and responsiveness to consumer demand. One role for regulatory agencies is to remove unnecessary barriers to competitive entry. A key role for the FCC and for state regulatory officials is to ensure that the principles of universal service remain an integral part of their telecommunications policies. We also must be prepared to revise our universal service policies in light of changes in technology and the marketplace.

*Question.* How can we promote public policy that encourages and permits all providers of telecommunications services, whether they be local phone companies, long distance phone companies, or electric utilities, to compete to provide advanced telecommunications services for educational institutions?

Answer. In my judgment, the most effective policy for encouraging delivery of advanced telecommunications services to educational institutions is one that seeks to promote competition wherever feasible. Experience has demonstrated that competition can stimulate service innovations, reduce prices and improve service quality. Market and technological forces should determine the success or failure of a technology or service rather than government directive.

Hence, one of the responsibilities of regulatory agencies is to adopt policies that remove unnecessary barriers to competitive entry. At the same time, we must exercise our oversight responsibilities over telecommunications carriers to ensure that they do not engage in improper cross-subsidization or other anticompetitive practices that deprive consumers of the full benefits of a competitive marketplace. This oversight is particularly important in markets that are not, or not yet, fully competitive.

Finally, our commitment to policies that promote competition must be matched by our commitment to policies that maintain universal services. Legislation now pending in the Senate explicitly recognizes that the access of educational institutions to advanced telecommunications services must be part of a national universal service policy.

Question. How can the Federal Communications Commission monitor the process to see that our national educational access objectives are being met by this market incentive approach?

Answer. Each year, the staff of the Federal/State Joint Board in Docket 80-286 prepares a report containing comprehensive statistical data. This report contains information on a wide variety of subjects, including telephone subscribership and penetration, lifeline programs, high cost assistance programs, network usage and growth, infrastructure development and new services. In addition, the Industry Analysis Division of the FCC's Common Carrier Bureau regularly compiles and reports data concerning a wide variety of important policy issues. For example, the Division publishes semi-annually a comprehensive report on trends in the telephone industry, including information about aggregate usage of the network and industry revenues and data concerning various FCC programs, such as the Lifeline Assistance Program. These reports could be expanded to include the access information mentioned in your question. Moreover, I think it is noteworthy that H.R. 3636, if enacted, would require the National Telecommunications and Information Administration to conduct an annual survey of educational institutions.

Question. In the context of S. 1822, we have been discussing the important subject of universal service. We have a major challenge to figure out how to integrate the benefits of universal service policies based on service mandates, while at the same time fashioning policies based on economic requirements and competition.

Section 103 of S. 1822, as you know, would require all telecommunications carriers to permit educational institutions, health care institutions, libraries and other entities to obtain intrastate and interstate services at preferential rates entities to ensure universal service. [sic]

Please discuss the manner and mechanism by which universal service funds could be utilized to fund educational telecommunications services.

Answer. Historically, the focus of universal service policies has been to promote the widespread availability of basic telephone service. As society evolves in the information age, however, the FCC has a duty to review its universal service policies in light of developing markets and advancing technologies, including the objectives of such policies. The pending Senate legislation directs the FCC to establish a national universal service policy and properly affords the FCC flexibility to adapt its policy to the emerging competitive environment.

As you note, the pending legislation recognizes that educational and other institutions are an important component of universal service. Section 103 of S. 1822 would authorize the FCC and state governments to require telecommunications service providers to provide access to certain entities, including schools, libraries, and health care institutions, at preferential rates. In addition to traditional universal service mechanisms, the FCC might also seek to explore new mechanisms, including those that target directly entities with unique needs.

Finally, I believe that Section 201A(b)(2) of S. 1822, which requires all telecommunications service providers to contribute to universal service goals is central to fulfilling national universal service objectives. Ensuring that all carriers contribute equitably to the protection and advancement of universal service will enable the Commission to promote its objectives in a fair and efficient manner.

## QUESTION SUBMITTED BY SENATOR PETE V. DOMENICI

## NEW USER FEES

*Question.* The President has requested new user fees totalling \$73 million as an offset to a proposal to reimburse states for the incarceration cost of illegal aliens.

1. What fees does the administration propose to increase?

2. Since this is being explicitly offered as an offset for a program not related to communications, isn't this fee increase actually a form of a tax increase? What benefits will be derived from this increase in user fees that would not be derived from the use of directly appropriated funds?

3. As Chairman, do you support the Administration's proposal for an additional \$73 million in fees?

*Answer.* It is my understanding that the Administration proposes an increase in both application processing (Section 8) fees and regulatory (Section 9) fees in order to fully offset the Commission's fiscal year 1995 appropriation. What the Administration is proposing, I believe, is that the direct beneficiaries of our regulatory activities be required to offset the costs of the Commission. The Commission would not benefit directly from the imposition of additional fees. The primary beneficiary would be the general public, given that tax receipts would no longer need to be used to fund the Commission as is currently the case. I support the full funding of FCC operations through the imposition of fees on the direct beneficiaries of the Commission. In the present environment it affords the Commission an ability to increase its capability and carry out its responsibilities more expeditiously. I will defer to the Administration and the Congress to decide how the funds should ultimately be allocated.

## QUESTIONS SUBMITTED BY SENATOR MITCH MCCONNELL

## BILLED PARTY PREFERENCE PROPOSAL

*Question.* I wanted to call your attention to the Billed Party Preference (BPP) proposal now being discussed at the FCC. I have a number of concerns over this proposal that I would like you to address for my benefit. As I understand the proposal, consumers would have their travel calls automatically routed to the carrier they use at home. This certainly would have some appeal.

Critics of the BPP plan allege that aside from the costliness of the plan, there is no reason to implement it because consumers can already "dial around" carriers they don't want to use and the competitive landscape would be damaged if hundreds of small payphone operators, operator service companies and long distance carriers were to go out of business as a result. Has anyone in the FCC looked at the job impact this might have? It is my understanding that a number of providers would be hurt by this, but many who would be helped. I would like to hear your views on this and the current state of the proposal.

*Answer.* On May 19, 1994, the Commission announced that it would seek further comment on whether to mandate a new system for routing "0+" calls—that is, calls that are made by entering a "0" followed by a long distance number. While the Commission found that the evidence available to it indicated that the benefits of the new system, called Billed Party Preference or BPP, outweighed its costs, the Commission also found that some of the data underlying its cost/benefit analysis were not as firm or as current as it desired.

Currently, 0+ calls are sent to the operator services provider (OSP) to which the premises owner or payphone provider presubscribes. Under BPP, calls would be routed automatically to the OSP preferred by the party being billed for the call. For example, a calling card call would be routed to the cardholder's preferred OSP. A collect call would be routed to the called party's preferred OSP. A call billed to a third party would be routed to the OSP to which that third party had presubscribed.

The Commission found that BPP would provide three principal benefits. First, it would make operator services more "user friendly." Under a BPP system, callers would be able to make all of their operator-assisted calls on a 0+ basis, and they would be able to do so with the knowledge that calls would be automatically handled by the OSP with which the billed party had chosen to do business at the rates offered by that OSP.

Callers who currently use access codes would no longer need to do so. Callers who do not use access codes would no longer face the risk that their call would be carried by an operator service provider with rates considerably higher than the industry average. Based on data in the Commission's November 1992 report issued pursuant to the Telephone Operator Consumer Services Information Act, the Commission es-

timated that BPP would likely enable consumers to save about \$280 million per year by avoiding operator service providers with rates higher than the AT&T/MCI/Sprint average.

Second, the Commission found that BPP would force OSP's to refocus their competitive efforts towards serving consumers rather than serving aggregators, such as premises owners or payphone providers. The Commission recognized that such a shift in competitive focus would almost certainly eliminate the commissions that OSP's now pay to aggregators for directing 0+ calls to them. Moreover, based on the available data, it estimated that the elimination of commissions could save operator service providers about \$340 million per year on interLATA 0+ calls. Not only did the Commission find that this could offset a substantial portion of the costs of BPP, but that a shift in competitive focus could also foster lower prices and better service for consumers.

Finally, the Commission noted that BPP would eliminate certain AT&T advantages in the operator services market. For example, it would enable AT&T's competitors to offer end users the same 0+ access as AT&T.

On the other hand, the Commission also noted that BPP is an expensive technology. While it found that available data indicated that the net cost of BPP for LEC's would be approximately \$380 million on an amortized unseparated cost basis, with an additional estimated \$35 million per year for OSP expenses, it observed that this estimate was based on data that was not as firm nor as current as it would have liked.

Therefore, the Commission chose to issue a Further Notice that sets forth in detail its cost/benefit analysis based on the available data, giving parties the opportunity to comment on the analysis and to submit additional, updated data to corroborate or refute it. The Commission also seeks comment on whether some or all of the benefits of BPP could be achieved through alternative, less costly measures.

Finally, the Commission also addressed some aspects of how BPP should be implemented in the event it decides to mandate it. For example, the Commission decided that, if mandated, BPP should apply on a nationwide basis to all 0+ and 0-interLATA calls and that it should accommodate commercial credit cards. It also concluded that BPP should not give either LEC's or OSP's the exclusive ability to issue line number cards, however, it seeks further comment on whether BPP should include a fourteen or ten-digit screening design. It also seeks comment on whether prison phones should be subject to BPP.

#### FCC PRIORITIES

*Question.* You have requested an expansion of FCC staff and financial resources. What are your priorities and the most pressing needs before the Commission?

*Answer.* The Commission has needs for additional staff in all of its primary program areas: Authorization of Service, Enforcement, International, Policy and Rule-making, and Public Service.

In order to provide a responsive regulatory framework for the rapidly changing telecommunication industry, the Commission must expedite the review of existing rules and the consideration of new rulemaking requests. Accordingly, we are requesting additional staff for: analyzing the legal, economic, and technical ramifications of the technological advance and industry growth of both common carrier and private land mobile communications; expediting the review of common carrier tariff filings and proposed accounting rules changes; conducting spectrum usage studies to support NTIA's strategic management/planning initiative; reviewing broadcast ownership rules in light of the entrance of Digital Audio Broadcasting (DAB) into the market; expediting new rulemakings on advanced television and prime time access; and developing redundant expertise in analyzing potential RF radiation hazards of new telecommunications devices.

The Commission's Enforcement program likewise requires additional staff for: resolving complaints against common carriers; conducting common carrier cost allocation field audits; implementing the revised Emergency Broadcast System (EBS); and responding to indecency, Equal Employment Opportunity (EEO) and political programming rules violations.

In the Authorization of Service program, the Commission has an urgent need for staff to process applications for: Multi-channel Multi-point Distribution System (MMDS); Instructional Television Fixed Service, AM, FM and FM/Translators; Direct Broadcast Satellites; Microwave Services; International §214 systems; and Radio Experiments. These staff would help to expedite the start-up of new communications service providers and the field testing and development of new communications technologies.

**SUBCOMMITTEE RECESS**

**Senator HOLLINGS.** The subcommittee will stand in recess until Thursday, May 5, when we will hear from the Legal Services Corporation and the Securities and Exchange Commission.

[Whereupon, at 12:05 p.m., Thursday, April 28, the subcommittee was recessed, to reconvene at 10 a.m., Thursday, May 5.]



**DEPARTMENTS OF COMMERCE, JUSTICE, AND  
STATE, THE JUDICIARY, AND RELATED  
AGENCIES APPROPRIATIONS FOR FISCAL  
YEAR 1995**

**THURSDAY, MAY 5, 1994**

**U.S. SENATE,  
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,  
Washington, DC.**

The subcommittee met at 10:20 a.m., in room S-146, the Capitol,  
Hon. Ernest F. Hollings (chairman) presiding.  
Present: Senators Hollings, Domenici, and Gramm.

**LEGAL SERVICES CORPORATION**

**STATEMENT OF DOUGLAS S. EAKELEY, CHAIRMAN, BOARD OF DIRECTORS**

**ACCOMPANIED BY:**

**MARIA LUISA MERCADO, CHAIR, COMMITTEE ON AUDIT AND APPROPRIATIONS, BOARD OF DIRECTORS  
ALEXANDER FORGER, PRESIDENT  
JOHN TULL, DIRECTOR OF PROGRAM SERVICES**

**OPENING STATEMENT OF HON. ERNEST F. HOLLINGS**

Senator HOLLINGS. This morning the subcommittee will conclude its fiscal 1995 hearings with a review of the budget requests for the Legal Services Corporation and the Securities and Exchange Commission. Appearing first will be the Chairman of the Legal Services Corporation Board of Directors, Mr. Douglas S. Eakeley, and the chair of its Committee on Audit and Appropriations, Maria Luisa Mercado.

The Legal Services Corporation's budget request for fiscal year 1995 as transmitted by the President's budget is \$500 million. This represents a \$100 million, or 25 percent, increase above the amount appropriated last year.

Let me welcome Chairman Eakeley and Ms. Mercado, who I should note are testifying before the subcommittee for the first time.

We also have sitting at the table the President of the Corporation, Alexander Forger, and John Tull, Director of Program Services. We have got the whole power structure here.

Welcome. Let me hear from you, sir.

Excuse me. I will yield.

Senator DOMENICI. No; I will save it.

Senator HOLLINGS. Senator Gramm?

Senator DOMENICI. Senator Gramm is going to ask some questions.

Senator GRAMM. Yes; I will just wait.

Senator HOLLINGS. Go right ahead.

Mr. EAKELEY. Thank you, Mr. Chairman.

#### PREPARED STATEMENT

We have submitted our testimony. I would just like, if I could, to make some introductory remarks.

Senator HOLLINGS. Your statement will be included in its entirety. You may highlight it as you wish.

[The statement follows:]

#### STATEMENT OF DOUGLAS S. EAKELEY

We would like to thank the Chairman and members of this committee for their strong support of civil legal services for the poor. It is only through your support over the past two decades that the Legal Services Corporation has been able to pursue its mission to ensure equal justice for people living in poverty through the provision of high quality representation, and to empower poor people to improve their lives through the rule of law. The Corporation carries out this mission by funding programs which provide direct legal representation for millions of families, men, women and children, who are struggling to meet their most basic survival needs. In addition, the local programs provide community legal education, and serve as a problem-solving resource to low income people and their communities.

The need for legal services is great. Every day, thousands of people living in poverty confront legal issues which affect their survival, health, housing, and physical safety. When they bring their problems to Legal Services offices, many must be turned away simply because there are not enough resources to provide help.

The eleven members of the newly appointed Board of Directors of the Legal Services Corporation took office less than six months ago. Already, we have begun to ensure that this critical part of our nation's justice system is better able to provide high quality, effective and economical services to the poor. We have committed ourselves to ensuring: high quality legal representation which leverages and maximizes scarce resources; a high level of effective accountability; the repair of damaged service delivery capabilities; the restoration of a high level of integrity and public confidence in the Corporation's ability to carry out the mission of the Legal Services Corporation Act; and responsible leadership and stewardship of the Corporation's mission.

Day to day and throughout our nation, it is the legal services lawyer and paralegal who use the legal process to: enforce the low-income family's right to safe, habitable and drug-free housing; ensure a mother's physical safety for herself and her children in the face of an abusing spouse or partner; help a welfare recipient cut red tape in order to obtain job training and climb out of poverty; protect the farmworker's right to toil free from fear of life-threatening pesticides; save family farms; enable a client to obtain essential disability assistance; help communities build housing for homeless low-income working families and teen mothers who are struggling to finish their educations; and fight against the subtle practices of discrimination based on race, gender or family composition, and enforce the fair housing laws on behalf of indigent families.

The Legal Services Corporation initially submitted a request for a fiscal year 1995 appropriation of \$848 million which is the cost of providing "minimum access" to legal services in the United States today. In light of the extreme pressure on limited federal funds this year, however, the Corporation has recently submitted a revised budget request of \$500 million, in full support of President Clinton's budget recommendation for the Legal Services Corporation. The President's recommendation affirms the Corporation's commitment of the great majority of its resources to the direct delivery of services to eligible clients. As our revised fiscal year 1995 budget request shows in detail, we propose to allocate more than ninety percent (\$452,453,000) of our fiscal year 1995 appropriation for the direct delivery of legal services to eligible clients (categories I.A. and I.B. of the attached table).

Most of these funds for legal assistance to low income clients (\$417,075,000) will be distributed in grants to the 282 Basic Field programs that offer services in every county in the United States. These programs are led by local boards of directors. A majority of the local board directors are appointed by local bar associations, and

most of the remainder of the boards' memberships are made up of people who are eligible for the legal services that the programs provide.

Other field programs are specially staffed and situated to meet the specific legal needs of Native Americans living on or near reservations and of migrant farmworkers as they work to plant, tend, and harvest our crops. Specialized legal knowledge and carefully designed methods of responding to extraordinary needs are required to serve these populations, and there has also been a rapid increase in the migrant population. The budget therefore reflects augmented funding in this area. The Corporation plans to undertake a demonstration project to begin serving the critical legal needs of poor people who live in nursing homes and other long-term care facilities for the elderly and disabled, mental health, juvenile and other institutions. Historically, these people have not been included in the "count" of people that the Corporation's funding has been intended to serve because they are counted separately by the Bureau of the Census.

Of the \$452,000,000 allocated to direct delivery of legal services to eligible clients, \$5,156,000 is proposed for use in Other Direct Delivery (I.B.). This funding line includes \$1,554,000 for Supplemental Field programs which have served as laboratories and models for private attorney involvement and include such initiatives as judicare projects and pro bono referral programs. In addition, within this category, LSC requests \$1,710,000 with which to make continuing grants to encourage law schools to participate in the delivery of legal assistance to the poor, to train new Legal Services program staff attorneys, and to develop the private bar's knowledge and sensitivity towards addressing the legal needs of low-income people. As there is a further immediate need to assist LSC-funded programs to recruit and retain high-quality staff, the Corporation also requests \$1,892,000 with which to make grants or enter into contracts for meritorious and innovative projects for program improvements that enhance diversity and assist in the recruitment and retention of staff through such projects.

Seven percent of the total fiscal year 1995 budget request (\$32,747,000) is allocated for Support for the Delivery of Legal Assistance (categories II.A. and II.B.). Many local legal services attorneys are engaged in a poverty lawyer's version of a general law practice. While their expertise is broad, it cannot be of infinite depth on every subject. Currently, sixteen National Support centers, and State Support centers in every state, play a critical partnership role with local programs by providing highly specialized substantive and procedural legal expertise, training on new legal issues, and brief banks and reference materials. These resources are invaluable to local programs as well as administrative agencies and officials who seek their expertise in considering how the law affects poor people.

During the last decade, funding for such support capability has not kept pace with funding for the local programs they serve. In addition, new areas of critically needed support have emerged in response to dramatic demographic changes in the low-income community and accompanying changes in substantive legal issues faced by poor people. As a result, the Corporation seeks to enhance its funding in these support areas.

Other important support components include continuation and improvement of the National Clearinghouse for Legal Services, the Regional Training Centers, and computer assisted legal research in response to growing field program needs. In addition, the Corporation seeks support funds for three critically needed expansions of capabilities of Field Program. First, \$800,000 will be made available to grantees for training they identify as their highest priority, including entry level and experienced staff attorney skills, supervisory skills training for managers, intake and referral techniques for paralegals, or financial management for administrators. Second, to improve efficiency, \$913,000 will be distributed for adopting better technology, including computers and office systems, and for development of client services employing mediation, conciliation, and negotiation rather than relying solely on litigation. Third, \$1,700,000 will be used to develop innovative projects that involve clients effectively in finding ways to solve their own legal problems, help other poor people without lawyer intervention, and participate in local program delivery of high quality legal services. In each of these three areas, prior Corporation experience has made it clear that local programs can use specially targeted funding to implement efficient and effective additions to their current work for clients. Consequently, in each area, the Corporation will solicit proposals, review them for merit and make special purpose grants to the best projects.

LSC Management, Administration and Board Initiatives represent only 3 percent of the overall budget (categories III.A and III.B). This allocation reflects the Corporation's commitment to maximize resources available to direct service delivery to eligible clients. Management and Administration funds (\$12,800,000) will allow the Corporation to meet its mandated responsibilities. Particular emphasis will be

placed on improving the Corporation's ability to hold grantees accountable for compliance with their obligations to provide high quality, effective, and economical services to clients within the terms of the Corporation's Act and regulations. Board Initiatives (\$2,000,000) will continue to support the ground breaking Comparative Demonstration Project, which seeks to measure and compare Legal Services programs to each other on the basis of innovative performance criteria and a performance-based review process. The concluding phase of the Project is scheduled to occur in fiscal year 1995 and is projected to cost \$900,000.

The remaining \$1,100,000 will allow the Corporation to conduct limited demonstration projects on ways to improve the delivery of legal services to specially needy populations such as the rural poor, the elderly, and women and children suffering from AIDS; to analyze a decade of experience with private attorney involvement and ways to improve upon that experience, and a long overdue effort to upgrade and expand information systems and technology at the Corporation.

We urge you to adopt this new budget request of \$500 million as an appropriate first step toward reaching equal justice for the more than 60 million poor people in our nation who are eligible clients. These resources will go toward immediate expansion of the ability of local Legal Services programs to provide much-needed direct services to clients, while support for local providers will be strengthened, and the Corporation's ability to hold programs accountable and lead them toward improved quality will be enhanced.

Eighteen years ago the Legal Services Corporation asked the Congress for adequate funding of a civil legal services system which could provide so-called "minimum access." With the leadership of this subcommittee, by 1980 there was a legal services program covering every part of this land. During the 1980's, while that delivery system became stretched so thin that it could offer just a fraction of the protection and relief envisioned by the Legal Services Corporation Act, it nonetheless survived.

Thank you for your support for this work over the last twenty years, in this year, and in the years to come.

#### LEGAL SERVICES CORPORATION BUDGET REQUEST—FISCAL YEAR 1995

	1994 request	1994 appropriation levels	1995 request
Direct delivery of legal assistance .....	\$483,597,000	\$366,250,000	\$452,453,000
Field programs:			
Basic field programs .....	457,957,000	341,865,000	417,075,000
Native American programs and components .....	9,606,000	8,950,000	11,635,000
Migrant programs and components .....	13,267,000	12,759,000	16,587,000
Services to people in institutions .....			2,000,000
Total, field programs .....	480,830,000	363,574,000	447,297,000
Other direct delivery:			
Supplemental field programs .....	1,367,000	1,274,000	1,554,000
Law school programs .....		1,402,000	1,710,000
Attorney recruitment programs .....	1,000,000		1,892,000
Special emergency funds .....	400,000		
Total, other direct delivery .....	2,767,000	2,676,000	5,156,000
Support for the delivery of legal assistance:			
Support centers:			
National support .....	9,889,000	9,611,000	12,494,000
State support .....	11,338,000	10,564,000	13,733,000
Total, support centers .....	21,227,000	20,175,000	26,227,000
Other support:			
Clearinghouse .....	1,182,000	1,101,000	1,343,000
Training and training centers:			
Regional training centers .....	800,000	795,000	970,000

## LEGAL SERVICES CORPORATION BUDGET REQUEST—FISCAL YEAR 1995—Continued

	1994 request	1994 appropriation levels	1995 request
New training .....	100,000		800,000
Client involvement .....	500,000		1,700,000
Improved efficiency:			
CALR grants .....	698,000	651,000	794,000
Other innovations .....	500,000		913,000
Total, other support .....	3,780,000	2,547,000	6,520,000
Total, support for the delivery of legal assistance .....	25,007,000	22,722,000	32,747,000
Corporation management and initiatives: Management and administration .....	14,661,000	10,928,000	12,800,000
Board initiatives:			
Competition initiatives .....	600,000		900,000
Other initiatives .....	1,650,000	100,000	1,100,000
Total, board initiatives .....	2,250,000	100,000	2,000,000
Total, corporation management and initiatives .....	16,911,000	11,028,000	14,800,000
Total, Legal Services Corporation .....	525,515,000	400,000,000	500,000,000

Note: Line items in figure columns 1 and 2 are exhibited to correspond with the 1995 budget request.

## ACCOMPLISHMENTS OF PAST 6 MONTHS

Mr. EAKELEY. We have a newly appointed and confirmed by the Senate Board of Directors of the Legal Services Corporation. We were sworn in on November 8, so we have been in office for a little bit less, a few days less, than 6 months now. We have attempted to do a great deal in those 6 months. There is a great deal awaiting us to do further. But I think it is fair to say that all 11 of us are committed to the goal and ideal of equal justice under law. We are committed to supporting the Legal Services Corporation and its grantees as the very important vehicle for advancing this country toward that goal.

And we also believe that in order to accomplish that goal that we need to do as much as we can to broaden and expand the support for the program and to make it as truly bipartisan as possible.

Although we are driven and the Congress I believe was driven by the goal of equal justice, there are also some very pragmatic reasons we think why this subcommittee should be supportive of our program. The three initiatives you mentioned, first health care reform, welfare reform, and crime control, all have aspects to them that touch upon legal services programs, advocates, and clients, and indeed we believe that an investment in the legal services program will yield substantial advantages in accomplishing health care and welfare reform and, indeed, even more importantly perhaps, crime prevention.

## MISSION OF LEGAL SERVICES CORPORATION

The reason I say that is this: we provide access to our system of government and to our system of justice to poor people who other-

wise would not have that access. That access is important for protecting their interests and their rights and for giving them a stake in the system and some hope in the future and an ability to bring themselves out of poverty.

The more that we can include people in the system, we think the greater chance they will have to seek to improve their conditions and to resist the temptation to fight against that system. So we think that the program is essentially and profoundly conservative, but also essentially and profoundly American.

#### DESCRIPTION OF CHANGES IN FISCAL YEAR 1995 BUDGET REQUEST

Now, of the request that the President has made, which is a bit less than we had asked—we had asked for \$848 million, which is more than a doubling of our current appropriation. That \$848 million translated into, represents a minimum access funding level that was accomplished in 1981, adjusted for inflation and the demographics of poverty, roughly two lawyers for every 10,000 poor people in the country.

We are sincere and serious in seeking to pursue that minimum access objective, but also, hopefully, a little bit more realistic about the constraints facing this subcommittee and the Congress this year and in the following years.

What the President has requested and OMB recommended is a \$100 million increase. Although 25 percent is seemingly large in percentage terms, it is small in comparison to the base that we are seeking to rebuild. It is small in comparison to the vast undermet legal needs that are in the legal community that we are unable to serve today, and we believe it is small in comparison to the benefits that we can secure from the investment that we can make in serving poor people and indeed advancing toward equal justice.

Of that \$100 million increase, roughly 86 percent of it will be going directly to what we call the direct service delivery. That is our direct field programs plus our programs serving native Americans and migrant farm workers. It is roughly—we have 320 or so programs in those three direct services categories. So as you can see, a \$75 million increase for 320 programs is not a lot of money to provide some additional services and capacity. But that is basically the thrust of what we seek, a capacity enhancement.

The balance of our increase we are seeking, roughly \$12 million of the \$14 million we are seeking in order to increase the efficiency and the effectiveness of the delivery system we have by way of additional training, by way of working with our client population to help them help themselves better, without need of many lawyers, by way of better communications, better computer assistance and the like.

Roughly less than 3 percent of the total budget and of the increase we seek is for management and administration of the program. So it is a direct passthrough to enhance capacity and effectiveness.

I think I will stop there and turn the table to Ms. Mercado if I may.

Senator HOLLINGS. Certainly.

## OPENING STATEMENT OF MARIA LUISA MERCADO

Ms. MERCADO. Thank you, Senator Hollings, Senator Domenici, and Senator Gramm, for having this hearing today. It is really exciting for me, and I say that in a very personal way. I think that I never would have envisioned, having worked in the fields of west Texas as a migrant farm worker at the age of 7 years old that I would be speaking before the Senate, because people like me in a family of 10 migrant farm workers, earning the kind of wages and living in the kind of housing conditions that we lived in, it was not thought of that we would be able to get out of the poverty cycle.

And for my father it was always the most wonderful thing that I could become a lawyer in spite of all the obstacles that came along the way.

Senator HOLLINGS. From Lubbock, TX?

Ms. MERCADO. Out of Lubbock, TX.

Senator HOLLINGS. Well, that is a pretty rich place. How about Kent Hance? Is he doing all right?

Ms. MERCADO. He is not there any more. He is in Austin.

Senator GRAMM. We moved him off to Austin.

Senator HOLLINGS. Do you ever run into a Dr. Haynesworth there?

Ms. MERCADO. No, sir; I do not.

Senator HOLLINGS. A godson of mine. Now he has moved too. Go on.

Ms. MERCADO. Lubbock has been where I have lived since I have been a lawyer. I grew up in farming communities, Hartford, Morton, Littlefield, Plainview, and then, of course, migrating to Colorado and Minnesota, but always from our home base in west Texas.

So consequently I think both on a personal level and also having worked with legal services as a community agent before I went to Austin and then later as a staff attorney with West Texas Legal Services, and I worked with the Attorney General's office for several years, also in consumer protection, and now I have been in private practice for quite some time, the lasting impression to me that has been continuous over all that period of time is that poverty has increased in a greater degree than we thought it would be.

Twenty-five years ago when I was working and helping people trying to get housing and trying to get some access to health care, I thought that those problems would be solved by now, and obviously that is not the reality. In Texas alone we have over a 50 percent increase in poverty.

The programs that we have in legal services in Texas do not even provide 69 percent of the people that we need legal services in a situation, whether it is for housing or to just get the basic benefits, can they provide services. And from my own example, while I was in college and law school it took me 7 years to get my mother, who is blind, on dialysis, and to finally get the Social Security Administration to say that she was disabled.

They did grant her her benefits in the year before she died. But if I as an educated individual could not convince the administration or meet all the requirements or bring all the medical documents that needed to be done to prove that this person could not possibly work under any conditions, then you can see the great need for

people who do not have an education or are very marginally able to understand the forms and processes.

So that a lot of the work that legal services does is to provide minimum access to having someone survive. She was lucky that she had a couple of children that could help her out some, but there is a lot of other people that do not. That is the disheartening aspect of it.

#### DESCRIPTION OF SERVICES

As far as the legal services is concerned, what we are looking at is trying to get us back to a level where we can say we are providing minimum access. The goal when Legal Services was enacted under the Legal Services Corporation Act was to provide minimum access, which has been defined as two lawyers per 10,000 poor people. And in 1980 we had just about gotten to that level.

As you know, there were a lot of cutbacks during the eighties. I know from my own personal experience that a lot of the offices in west Texas were closed. A lot of the service areas are no longer being serviced. Especially in the rural communities, there is not any outreach going on into those communities for legal services. And the need is much greater than what is there.

#### PRIVATE BAR INVOLVEMENT

I have been involved in the pro bono attorney program in helping provide some of the crisis help that is needed for some of the people who have to have somebody help them. But there is just not enough lawyers or staff to help them get their food stamps or make sure that they stay in their house.

To me, I see that as a partnership which has allowed the regular bar, the private bar, to understand that they as private attorneys cannot possibly handle the need of poor people. In Lubbock, it is one of the best areas for private attorney involvement. They got the award from the State bar last year for the best pro bono services program. And even in that aspect, we are not servicing as we should.

#### VETERANS COURT OF APPEALS

Senator HOLLINGS. Well, let me ask this question then. I will introduce at this point a letter from the National Organization of Veterans Advocates dated February 18, 1994, to Mr. Alexander Forger, from Keith Snyder, complaining about the pro bono consortium being organized to take away these fee-generating cases that are before veterans appeal.

Apparently, if the consortium organized by Legal Services determines that a claim may net an attorney fee of \$10,000, only then will it suggest that they receive private counsel. Let me say that there are many, many attorneys in private practice that will take cases lower than any \$10,000 fees.

I do not remember any of those in my day in Charleston.

[The information follows:]

LETTER FROM KEITH D. SNYDER, PRESIDENT, NATIONAL ORGANIZATION OF VETERANS' ADVOCATES

FEBRUARY 18, 1994.

LEGAL SERVICES CORPORATION,  
750 First Street NE, 11th Floor,  
Washington DC 20002.

ATTN: Alexander Forger, President.

DEAR MR. FORGER: Our organization is an association of private attorney and non-attorney practitioners who are admitted to practice before the U.S. Court of Veterans Appeals. We have members in almost every state who are actively representing veterans and survivors who have appealed to the court. Your organization has provided funding to establish a Pro Bono Consortium, an organization intended to provide representation to pro se appellants before the Court of Veterans Appeals.

It was my understanding from discussions with staff of your predecessor that the funding of the Consortium was not intended to interfere with or compete with the private bar. There is, however, a very real competition involved and it is my sense that the Consortium is adversely affecting the ability of the private bar to reach clients. The use of public funds to undercut the ability of private practitioners to represent veterans appears contrary to the purposes of the Legal Services Corporation—and is restricting the expansion of the private bar in this area of law.

The Consortium appears to make little effort to determine whether a case is fee generating and would therefore be of interest to the private bar. It apparently has never suggested to a pro se appellant that he/she should seek a private attorney before the Consortium provides free representation. Instead, the Consortium's advisory board has set an unrealistic level of potential fees as the threshold above which it might refer a pro se appellant to a private practitioner. Currently, only if the Consortium determines that a claim may net an attorney fee of \$10,000 will it suggest the appellant seek private counsel.

Our organization's members routinely accept cases where the potential for a fee is much less. My attempts to persuade the Consortium's advisory board (including a presentation in November) that its \$10,000 attorney fee threshold was inappropriate have been to no avail.

There is another problem with the Consortium's handling of appeals that warrants attention. The attorneys to whom the Consortium farms out its cases are only obligated to provide representation before the Court of Veterans Appeals. Almost no cases are decided on the merits by the Court; instead it routinely remands cases to Department of Veterans Affairs for further development. In my experience, the cases must be won at the Department.

Despite the importance of successfully completing the subsequent development called for in a court-ordered remand, the Consortium does not obligate its pro bono counsel to continue representing the veterans. Nor does the Consortium have a mechanism in place to steer these cases to private attorneys who are available to provide representation. Worse, unless the veteran retains private counsel for representation before the Department and does so in a contract that supersedes the contract with Consortium-appointed attorney, the veteran loses his right to attorney representation.

We request that you direct that no further public funds be expended on services offered by the Consortium unless and until these two problems are addressed. Our organization's members are located throughout the country and are ready and willing to provide representation to more pro se appellants—and willing to continue their representation when the claims are returned to the local VA offices.

While there may be a need for some level of public funding for representation of certain veterans' claims at the Court, we believe it is more cost effective now, and in the long run, for the private bar to meet the needs of these veterans. There certainly seems to be no utility in undercutting the private bar's willingness to assist veterans with these cases.

Sincerely,

KEITH D. SNYDER,  
*President.*

Senator DOMENICI. A big case.

Senator HOLLINGS. Now, you say there is a tremendous unmet need for legal assistance, and you described it, both of you, in very dramatic terms. You feel it and you know it, and yet you are out trying to undercut the private bar. We have got to accept all the

help we can possibly get. Here are these veterans' private attorneys ready, willing, and able to represent clients for the fee generated by the benefits case but we are trying to reach into that particular domain. All this when we have not yet satisfied Lubbock and the impoverished there in need of legal services.

How do you justify that?

Mr. EAKELEY. Mr. Chairman, that is a quite unique program and Mr. Forger has been diligently trying to understand all of its contours and dimensions. But I think he is probably the best person.

Senator HOLLINGS. Why contours and dimensions? I understand it, or am I inaccurate? I will just read the letter and the question.

Mr. FORGER. We have been asked to administer that program on behalf of the veterans court, so we undertook the task of seeking to administer that pro bono panel. We received the letter saying a number of cases are now being handled by the pro bono panel, for which Congress appropriated some \$900,000 in order to run that, because the veterans court saw that most of its veterans were represented by themselves. They were appearing pro se.

They had a system in place where they tried to involve the private bar. The private bar was not interested in taking most of the cases. These are like Social Security statutory benefits and it is the veterans who file to get that payment of statutory benefits, just as in Social Security.

We are looking into the issue of treating that the same as Social Security, where Congress has said to us that where attorney's fees would come out of the monthly benefits of Social Security that it was OK for legal services to do that without turning it over to the private bar.

Senator HOLLINGS. I understand. But I was here when we used to have these folks jumping up and down on the steps during the war in Vietnam, and the charge was that we were financing demonstrations and it got so that we were not getting the support for legal services and we had to retrench and stipulate that legal services was to assist only in landlord-tenant disputes, domestic cases, those kind of things.

Now, if we go into these new fields where private attorneys are, start displacing them over their objections, that's going to hurt your whole program. Is there a \$10,000 limit before you abandon a case and let the private attorneys handle it?

Mr. FORGER. Thus far the veterans group that has managed this has said that unless there is likelihood of a fee in the range of \$10,000 we will continue the pro bono panel. The private bar has said, we can do this even for \$2,000.

To the extent the private bar can take on any of these issues, we want very much to have the private bar involved.

#### NEW ATTORNEY RECRUITMENT

Senator HOLLINGS. Well, that is what we want as well.

Well now, and I will yield to my colleagues in just a moment—we are glad to get the folks out this morning. Right to the point, here again, we are shorthanded and shortfunded, but I see in the justification a \$1.9 million request to start another new program of student aid for the recruitment of those who cannot pay their stu-

dent loans. So we are going to help them pay their student loans if they will come in to Legal Services.

That could be a very worthy project and everything else, but before we start a new endeavor for student aid, we need to first meet the basic legal needs of the folks down home there in Lubbock, TX.

Mr. EAKELEY. This is not a new endeavor, but really part of the need to extend our capacity to deliver and improve the efficiency of that delivery. The programs have been cut back so drastically over the years that there has not been much opportunity or capacity to bring in new people, recruit new people from law schools, and develop career legal services attorneys.

One of the problems we confront now in attempting to persuade young lawyers to enter into a legal services career, given the fact that there are no pensions for legal services attorneys and that the legal services attorneys' salaries are lower than any other public interest lawyers group out there, State attorney generals or the like, is the fact that you have got an overhang of law school loans of between \$40,000 and \$80,000 for more than one-half of the students graduating from law school today.

What we are looking for is a way to help attract people into the program so that they can help us deliver more legal services to those in need. We need lawyers to do that and we need young lawyers to be developed and come along as we do, and it is very difficult to do that.

We also need to do more to reach out and develop the diversity of the pool of talent working in our programs, in part so that that pool can be more reflective of the clients that they serve.

Senator DOMENICI. Would the Senator yield?

Senator HOLLINGS. Go ahead.

Senator DOMENICI. Just on this issue, I frankly have not run into anybody that is in the business of trying to find lawyers that they want to hire that has not told me that they have applicants coming out their ears. I mean, I heard from somebody the other day saying that in the U.S. attorney's office in one of our States there were enough applicants with high qualifications that hardly anybody in the office would survive if put up against the applicants.

Now, why do we need new money in this regard when it would seem to me you ought to have plenty of applicants to become part of the Corporation, and if something is not amiss?

#### SALARIES OF LEGAL SERVICES ATTORNEYS

Ms. MERCADO. Just to give you an example, in Lubbock, for example, the entering salary for a U.S. attorney is between \$35,000 and \$40,000 a year.

Senator DOMENICI. Yes.

Ms. MERCADO. Whereas the entering salary for legal services, depending on which program area, is between \$16,000 and \$20,000 a year. So there is a great deal of difference.

Senator DOMENICI. I only use that as one example.

Ms. MERCADO. Right.

Senator DOMENICI. Is it not true that there are more lawyers around that do not have work than any comparable time that you can remember in your adult life? I mean, for me, I have been at

it longer than you and there has never been a time when there has been more of an abundance of lawyers.

Ms. MERCADO. That is probably true. Even some of them—unfortunately, we have had some that have either gone into some different kind of field, whether it is a business entrepreneurship or anything else, other than going into a public service, like legal services, when the salary was so low.

Senator GRAMM. Could I ask two questions?

Senator HOLLINGS. Yes; let us yield to Senator Gramm.

#### NEW JERSEY CLASS ACTION LAWSUIT

Senator GRAMM. Mr. Chairman, I appreciate your yielding. I have to run out to another meeting and I appreciate you all coming today.

I think I have a perfect example here of a problem that people like me see with legal services. If legal services really was aimed at trying to help poor people protect their rights, help them in dealing with disputes involving business or family matters, I think it would be much easier for me to be supportive of this program.

But I see evidence every day of where that is not what you are doing. And I think a perfect example of this occurred on December 1, 1993, when five federally funded legal services organizations filed a lawsuit against the Federal Government and the New Jersey Department of Health and Human Services trying to overturn a new New Jersey law on welfare reform. Now, this New Jersey law, the Family Development Act, which passed in 1992, contains a provision that says if you have children you continue to receive AFDC, but after the enactment of this law if you conceive another child while on welfare that child will not trigger more funding.

You have five legal services organizations that have filed a lawsuit against the State of New Jersey trying to overturn that law, which, by the way, is similar to a provision proposed by the President, is similar to a provision that is sponsored by almost every Member of Congress in one form or another.

And let me read to you from your lawsuit the arguments that are made for overturning this law—well, let me just pick a couple of them. One argument is that the law is a compulsory family planning service, in violation of Federal law. The law, however, simply says you don't get money for having new children. It does not say you cannot have them.

The lawsuit claims that the New Jersey law makes welfare recipients unwilling human subjects in a research experiment, and that denying additional benefits for conceiving children while on welfare represents an undue government intrusion on a woman's fundamental right to make decisions about family composition, conception, and childbirth, in violation of the U.S. Constitution.

Now, what I do not understand is why we ought to be giving \$2.3 million to these five legal services organizations who are trying to overturn a law that we support. That I do not understand.

Mr. EAKELEY. Could I answer your question or your conundrum in two different ways, Senator.

Senator GRAMM. Sure.

Mr. EAKELEY. The first is a little more indirect, but I will get back to the New Jersey welfare reform. I come from New Jersey. I have not read the briefs, but I am familiar with it.

Senator GRAMM. That is why I picked this one, because I figured you would know something of it.

#### WORK OF LEGAL SERVICES FIELD PROGRAMS

Mr. EAKELEY. Just in terms of what Legal Services does, over one-third of all the cases and services we render nationally are family related. We will submit pie charts to the subcommittee, but basically over one-third are family, keeping families intact, securing benefits from a father who is absent from the home, dealing with the status of children in a divorce or custody situation. So it is one-third that we do all family.

The next that we do, most significant area of case law that we do do, is in the housing area. Over 21 percent of our cases involve housing: prevention of eviction, the policing of conditions of infestation of roaches and rats.

Incidentally, roughly 80 percent of the people we benefit in our programs are children.

Senator GRAMM. But now these are cases. This is not money.

Mr. EAKELEY. This is actually where—well, I can deal with it in two different ways. The number of cases we do are family, housing, consumer finance, and income maintenance. The types of cases we do, over two-thirds of the cases do not involve litigation; they are counseling, advice, referral, and brief intake and closure.

A very small fraction, I believe it is less than 1 percent, of the resources and cases done go to class actions, where again in most circumstances those class actions have gone through an elaborate procedure to begin with in order to be cleared by the Board of Directors, that are controlled by a majority of lawyers appointed by the local bar association.

But again, the class action may have the greatest impact, it may have the greatest visibility, but it is only a small fraction of what Legal Services does.

Now, as to the class action itself, it is in many cases the most effective way to reach large groups of people who are systemically affected. The *Zebley* case, for example, was a case on behalf of disabled children denied benefits by the Social Security Administration. It had to go up to the U.S. Supreme Court to find that the Social Security Administration was wrongfully withholding those benefits. But the cost of securing those benefits was infinitely less because the class action procedure was used.

Welfare reform in New Jersey—we do not determine local priorities and needs. We do not tell local grantees what to do with their money. However—

Senator GRAMM. Now wait a minute. It is not their money. I am sorry, I have to object. It is the taxpayers' money.

Mr. EAKELEY. But the Congress—

Senator GRAMM. We tell people every day what to do with the taxpayers' money.

## MERITS OF LAWSUIT

Mr. EAKELEY. Yes; you are right. And the Congress has determined that the model for the legal services program nationally should be one which is operated by local programs pursuing local priorities and needs, as determined by those local programs' boards of directors.

Now, in New Jersey, like every other State virtually, two-thirds of all recipients of AFDC are children. Those children receive less than 60 percent of what the State government has determined to be their minimally basic needs for food, shelter, and clothing.

My understanding of the impetus for this lawsuit, which basically takes money away from existing children on welfare, is that it does precisely that. If you are a child in, let us say, a family of three children, you cannot control your mother's—what the law attempts to do is penalize children for procreative decisions made by their mothers, and it takes further resources away from existing children in those families.

## FUNDING CONSTRAINTS

Senator GRAMM. Let me stop you. You are not making law. I mean, the question is the State of New Jersey adopted this law. The State of New Jersey said: We will no longer subsidize people to have children on welfare; they can have them; it is a free country; but we are not going to pay them for it.

My question is why, when we are cutting over the next 5 years the FBI by \$976 million, DEA by \$480 million, INS by \$98 million, U.S. Customs by \$654 million, U.S. attorneys by \$466 million, prison construction by \$488 million, total Federal law enforcement by \$3.866 billion relative to current services, why should we be giving you \$327 million above current services to file lawsuits against New Jersey, when they are trying to do the kind of welfare reform that we would like to do ourselves? That is my question.

Mr. EAKELEY. Well, I think your answer—I cannot provide too much more of an answer other than that a different view of the lawsuit is that it is taking money away from children who already have too little to live on, and that is the one element of the welfare reform provision that is not supported by the legal services programs, and they believe that it is not appropriate.

The Corporation does not endorse the initiatives. It does not, indeed, initiate the initiatives. But we do seek the opportunity to provide funding so that rights can be protected and grievances addressed.

Senator GRAMM. If I could go back one more time—and I am not trying to get in a confrontation. One thing I always try to do, having had my own kinfolks sit where you sit, I always try to be very sensitive about people. And I know you are sincere in what you are saying.

But you see, what bothers me is I do not care what legal services lawyers think is appropriate. If they have views about appropriateness, they ought to run for the legislature in New Jersey and vote against these bills. It is one thing to think something is appropriate, but what is appropriate is a social desire, it is a political agenda.

It seems to me that the only rationale for you to file a lawsuit is if you believe that this law violated the Constitution. And when I read the points you are trying to make, basically trying to argue that there is a constitutional right to welfare since you are not going to pay people for having children while they are on welfare, that somehow that is family planning, I cannot imagine that is not going to be laughed out of the courthouse.

#### CONSTITUTIONAL ISSUE

Mr. EAKELEY. Well, I am not vouching for the legal theories. But if, Senator, you would concede for a moment that there might be a constitutional question presented by taking already inadequate funding away from already children who, through no choice of their own, were born into a family in poverty, if you would concede for the moment that there might be a constitutional question there, then would you concede that those children who are already through no fault of their own born into that family of poverty would have the right to some vindication or protection?

#### FUNDING CONSTRAINTS

Senator GRAMM. Well, I do not think the Constitution would require the Government to give anybody anything, based on my reading of the Constitution. Nowhere in the Constitution do I read a mandate that we give people something based on their income. I mean, we have decided to do that through law, but I think the Founding Fathers did not write that into the Constitution.

Here is my point, and I have got to go down to another meeting. But as long as Legal Services continues to take the taxpayers' money to oppose the will of the taxpayer, it is very hard for somebody like me not to oppose your funding. And if you want to get money to help poor people get access to the legal system for dispute settlement or protect their individual rights, that is one thing.

But when you are asking me to take money away from the FBI, in essence, to give it to you to file lawsuits against the State of New Jersey, which is doing something that I strongly support, that the people of New Jersey strongly support, that the people of America strongly support, and our Federal Government has now entered this lawsuit on the side of New Jersey, so the taxpayers' money is being spent on both sides of this conflict, to me it just seems kind of crazy.

Mr. EAKELEY. All I can say, Senator, is it is a very small portion of the Federal funds that go to class actions across the country, very small, less than 1 percent. And we have procedures for controlling, controlling and preventing abuses of that procedure.

But we also do have a system where the Constitution protects individuals from majorities and from governments. And unfortunately, fortunately or unfortunately, sometimes Legal Services advocates are the only ones able to step in in circumstances where some think at least that there is a legitimate claim that that constitutional right is being impaired.

Senator GRAMM. Thank you, Mr. Chairman.

## LEGAL SERVICES PRIORITIES

Senator HOLLINGS. I can not thank the Senator from Texas enough for highlighting this particular situation, because you have got to understand our problem. There is no unanimous vote for legal services. Year after year it is on trial, and it stays on trial for the very reason Senator Gramm just illustrated right here,

On the one hand, Ms. Mercado says there are a bunch of children who never get any services and are deserving and in need, but we cannot get to them because we do not have enough money.

Then, here are LSC providers serving a group of children in New Jersey—they're getting some money, but choose to use it to take a New Jersey statute. States are the test tube of democracy, as they try these particular initiatives and we see how they work. Here are some children that are getting welfare assistance, but they may be denied if that New Jersey statute is enforced.

It seems to me on a matter of priorities you try to get to those who are not getting anything. Your policy in New Jersey destroys Ms. Mercado's credibility.

Mr. EAKELEY. It is not my policy.

Senator HOLLINGS. If you really believe her, you could not conscientiously ever find yourself supporting these legal eagles who are using \$2 million to take on the State of New Jersey with a class action lawsuit. I mean, how do you defend that?

Mr. EAKELEY. It is not my policy and I am not trying to defend it.

Senator HOLLINGS. In an effort to support Legal Services Corporation funding, I would get up and I would cite Ms. Mercado and I would say, "Here is a person who lives in it, knows it, and says we are not doing the job we ought to do." But then here comes the Director of the Legal Services Corporation, and he says let us put up a couple million dollars for some lawsuits. The Senate would say "No way," I can tell you that.

Excuse me, Senator Domenici.

## APPROPRIATIONS RIDERS IN ABSENCE OF REAUTHORIZATION

Senator DOMENICI. Just a followup question. I think in fiscal 1991, you wrote a very lengthy do's and don't's.

Senator HOLLINGS. Right. That is what happens here on account of abuse that are brought to light that is right.

Senator DOMENICI. It was written in an appropriation bill. But my staff tells me—I was not on that subcommittee nor was I ranking member then. It was Rudman then, was it not?

Senator HOLLINGS. Right.

Senator DOMENICI. Rudman, Senator Rudman. Excuse me. But now we carry these provisions each year. Now, I have not had a chance to read them. There are pages of things you should not do.

Who watches these carefully with reference to seeing at the local level you are not operating in violation of some of these do's and don't's?

## RESPONSIBILITIES OF LEGAL SERVICES CORPORATION

Mr. EAKELEY. One of the Corporation's responsibilities is to make sure that the congressional restrictions on the use of Federal funds is followed through in each of the local programs.

Senator DOMENICI. So are you telling us that you believe these prohibitions are being followed and that there are no lawsuits out there that violate them?

Mr. EAKELEY. We are doing the best we can and to the best of our judgment that is correct.

But it is not \$2 million that is being ventured in New Jersey. And I do not mean to vouch for the lawsuit or for the decision, because we did not participate in it.

## FUNDING USED TO BRING LAWSUIT

Senator DOMENICI. But is it your money? Is it Legal Services' money, some if not all?

Mr. EAKELEY. I do not know. I do not know, because there are different funding sources for each of the programs, and those are Legal Services grantees involved in it, with the ACLU as well. But I do not know if it is Legal Services Corporation funding.

Senator DOMENICI. I wonder, Mr. Chairman, since Senator Gramm raised the issue and cited five different legal services agencies—

Mr. EAKELEY. We can provide that.

Senator DOMENICI. Could you provide the subcommittee with what Legal Services money from the appropriated funds we are talking about here that are in that lawsuit?

Mr. EAKELEY. And the procedures used to get to the decision to bring the suit in the first place. We will be happy to do that.

[The information follows:]

In response to Senator Domenici's question, the Legal Services Corporation has determined that counsel in the case of *C.K., et al., vs. Shalala, et al.*, Civil Action No. 93-5354 (NHP) (D. N.J.), include attorneys at seven LSC-funded legal services programs in New Jersey, as follows: Legal Services of New Jersey, Inc.; Union County Legal Services Corporation; Hudson County Legal Services Corporation; Somerset-Sussex Legal Services Corporation; Passaic County Legal Aid Society; Legal Aid Society of Mercer County; and Ocean Monmouth Legal Services, Inc.

The Corporation has ascertained that Legal Services of New Jersey, Inc., lead counsel in the case, Legal Aid Society of Mercer County, and Ocean Monmouth Legal Services have used no LSC funds to support their representation of plaintiffs in this case. The remaining programs, Union County Legal Services, Hudson County Legal Services, Somerset-Sussex Legal Services, and Passaic County Legal Aid Society have used LSC funds to support their representation of plaintiffs in the case. As more fully described on pp. 864-865, these programs have abided by the restrictions and followed the procedures mandated by the LSC Act and regulations and by the provisions of the LSC appropriations act covering representation in class action proceedings.

## PROHIBITIONS TO CERTAIN LAWSUITS

Senator DOMENICI. I will tell you, I believe that, since you are asking for a very large increase and Senator Hollings has kind of said it right, I would think that maybe you ought to go back and for this record you ought to certify that there are no lawsuits out there that violate the prohibitions. Maybe you could spend a little time trying to find that out.

There may be other ways to get money into the hands of lawyers and there is the ACLU that files suits. But I think we ought to know if there are any that violate these provisions and you ought to tell us that, and you ought to have your lawyers confirm it. Can you do that?

Mr. EAKELEY. Sure.

#### COMPLIANCE WITH THE ACT

Mr. FORGER. A part of our process, Senator, is the oversight monitoring compliance to make sure that the moneys for which we have responsibility and for which we are accountable are spent in accordance with the act and the regulations with respect to what occurs at a local program.

The act says what kind of actions can be brought that relate to abortion, illegal aliens, redistricting, and those must be observed. And they cannot lobby in certain instances, and there are a number of issues that must be complied with. That is our process of making certain that those programs do that.

But beyond that, Congress has said to us that the control is to be at the local level, except Congress has said the Corporation can and cannot do with this money.

Senator DOMENICI. We understand that.

Mr. FORGER. And at the local level I may not like, I may disagree with, our chairman as to the wisdom of a particular suit or he may disagree with me. We do not have any control over that. And the tragedy is for one lawsuit to be brought somewhere in America by something called a legal services local entity to create upset with the entire program, as if we were taking money for which we have responsibility and doing something that is not in favor, but it is legal in terms of what this Congress has told us we can do, would be the most unfortunate of all, because the types of people that Ms. Mercado talks about are out there.

There are literally tens of thousands of unserved people. We have no control over this New Jersey case. We have done our monitoring and on the basis of that all that we can tell you is did they get the appropriate approvals in order to bring this action in their local program. It has nothing to do with the national corporation.

Senator DOMENICI. Well, it may not, but nonetheless we are asking you today to certify that—

Mr. FORGER. They complied with these conditions.

Senator DOMENICI. Yes; that they complied with these conditions.

Mr. FORGER. We can do that.

[The information follows:]

In response to Senator Domenici's request that the Legal Services Corporation certify that LSC-funded programs involved in *C.K., et al., vs. Shalala, et al.*, Civil Action No. 93-5354 (NHP) complied with all requisite requirements, the Corporation has determined that counsel in that case include seven LSC-funded programs in New Jersey as follows: Legal Services of New Jersey, Inc.; Union County Legal Services Corporation; Hudson County Legal Services Corporation; Somerset-Sussex Legal Services Corporation; Passaic County Legal Aid Society; Legal Aid Society of Mercer County; and Ocean Monmouth Legal Services, Inc.

Provisions of the LSC Act, regulations and appropriations riders govern the representation of clients in class action proceedings by LSC-funded programs, as follows:

The Legal Services Corporation Act, Section 1006(d)(5), (42 U.S.C. Section 2996e(d)(5)), provides that,

No class action suit, class action appeal, or amicus curiae class action may be undertaken, directly or through others, by a staff attorney, except with the express approval of a project director of a recipient in accordance with policies established by the governing body of such recipient.

The LSC regulation governing class actions, 45 CFR Part 1617, requires project directors to approve the filing of class actions and requires recipients' governing bodies to adopt policies to guide the director of the recipient in determining whether to approve class action litigation. A copy of this regulation is attached.

Finally, Proviso No. 1 of the fiscal year 1994 LSC appropriation law (Public Law 103-121), provides that,

None of the funds appropriated in this Act for the Legal Services Corporation shall be used to bring a class action suit against the Federal Government or any State or local government unless—

(1) the project director of a recipient has expressly approved the filing of such an action in accordance with policies established by the governing body of such recipient;

(2) the class relief which is the subject of such an action is sought for the primary benefit of individuals who are eligible for legal assistance; and

(3) that prior to filing such an action, the recipient project director has determined that the government entity is not likely to change the policy or practice in question, that the policy or practice will continue to adversely affect eligible clients, that the recipient has given notice of its intention to seek class relief and that responsible efforts to resolve without litigation the adverse effects of the policy or practice have not been successful or would be adverse to the interest of the clients:

except that this proviso may be superseded by regulations governing the bringing of class action suits promulgated by a majority of the Board of Directors of the Corporation who have been confirmed in accordance with section 1004(a) of the Legal Services Corporation Act.

The Corporation has determined that the governing bodies of each of the seven legal services programs have adopted policies in accordance with the above-referenced requirements.

When an LSC-funded program uses no LSC funds to support the representation of a client in a class action, the provisions of the LSC Act and class action regulation, 45 CFR Part 1617, but not the provisions of the appropriations act proviso, apply. The Corporation has determined that Legal Services of New Jersey, Legal Aid Society of Mercer County, and Ocean Monmouth Legal Services have used no LSC funds to support their representation of clients in this case, and that these programs have fully complied with program policies, the requirements of the LSC Act and the class action regulation in providing representation in the case of *C.K., et al., vs. Shalala, et al.*, Civil Action No. 93-5354 (NHP) (D. N.J.).

When an LSC-funded program uses LSC funds to support the representation of a client in a class action, the provisions of the LSC Act, the class action regulation, 45 CFR Part 1617, and the appropriations act proviso apply. The Corporation has determined that four of the programs, Union County Legal Services, Hudson County Legal Services, Somerset-Sussex Legal Services, and Passaic County Legal Aid Society, have used LSC funds to support their representation of clients in this case, and that these programs have fully complied with program policies, the requirements of the LSC Act, and the class action regulation, as well as the requirements of the appropriations act proviso in providing representation in the case of *C.K., et al., vs. Shalala, et al.*, Civil Action No. 93-5354 (NHP) (D. N.J.).

#### PART 1617—CLASS ACTIONS

Sec.

1617.1 Purpose.

1617.2 Definition.

1617.3 Approval required.

1617.4 Standards for approval.

AUTHORITY: Secs. 1006(d)(5), 1007(a)(1), 1007(a)(3), 1008(e); (42 U.S.C. 2996e(d)(5), 2996f(a)(1), 2996(a)(3), 2996g(e)).

SOURCE: 41 FR 51607, Nov. 23, 1976, unless otherwise noted.

##### § 1617.1 Purpose.

This part is intended to promote responsible, efficient, and effective use of Corporation resources. It does not apply to any case or matter in which assistance is not being rendered with funds provided under the Act.

**§ 1617.2 Definition.**

*Class action* means a class suit, class action appeal, or amicus curiae class action, as defined by statute or the rules of civil procedure of the court in which an action is filed.

**§ 1617.3 Approval required.**

No class action may be undertaken by a staff attorney without the express approval of the director of the recipient, acting in accordance with policies established by the governing board.

**§ 1617.4 Standards for approval.**

The governing body of a recipient shall adopt policies to guide the director of the recipient in determining whether to approve class action litigation. The policies adopted:

- (a) Shall not prohibit class action litigation when appropriate to provide effective representation to a client or a group of similarly situated clients;
- (b) Shall not require case-by-case approval of class action litigation by the governing body;
- (c) Shall give appropriate consideration to priorities in resource allocation adopted by the governing body, or required by the Act or Corporation regulations; and
- (d) Shall not interfere with the professional responsibilities of an attorney to a client.

Senator DOMENICI. Do you have any guidelines of your own nationally that apply to the local level, local decisionmaking?

Mr. FORGER. We only interpret the rules as Congress has made them in the legislation and seeking to implement those purposes of the act.

Mr. EAKELEY. We have a book of regulations about that thick that do relate to that as well.

**BUDGETARY CONSTRAINTS**

Senator DOMENICI. I think that both Senator Hollings and Senator Gramm in their expressions thus far do give flavor to where the opposition comes from. I believe it is going to be very difficult to get the increases, for two reasons: one, it has just been stated right here; the other is because of the budget. There are so many things that have to be cut, and the President has asked for a lot of new program funding aside from the cuts.

It looks like the cuts are not going to fly because, for instance, on crime we are adding money and yet we are subtracting on line programs, daily programs that work out there. The administration took away from those. So there is going to be a lot of money. There is \$3.1 billion that his budget provided in excess of the caps which we have to find savings for.

So on fiscal grounds it will be tough. But I think all you need is a couple of these cases brought to the floor and you're in trouble. You may have some theory, but to take on a State legislature and the National Government—I assume that if we passed that statute—it clearly is a problem. In fact, it is in the President's proposal.

**CONTROL OF LOCAL PROGRAMS**

Senator HOLLINGS. Oh, yes. I tend to dissent from the environment, Mr. Forger, that you do not have any control. If that is what is to be told to Congress, we can just do away with legal services with the current requirements, restrictions, and guidelines, and start back in and rewrite tougher guidelines and restrictions. That is what we did almost 20 years ago.

I remember it well. Lewis Powell came here and saved it. The atmosphere at that time was that a bunch of fuzzy-headed liberals were trying, through the Legal Services Corporation, to turn over the Government, so why should we even have legal services? But, we found out it was a nice, conservative southern lawyer who was head of the bar association when we instituted legal services. Thank heavens for Lewis Powell, Justice Powell. He saved it.

I worked with Warren Rudman to keep LSC alive, and the reason we put the restrictions in was to save it. But, you folks have not gotten the message.

Mr. EAKELEY. We are policing those restrictions.

Senator HOLLINGS. No; not when you are bringing this kind of lawsuit up in New Jersey. You better get another policeman on the beat there, because these things are not what we expect the local folks to do. They know that they have got cases galore for the poor who need representation in domestic cases, in landlord-tenant cases, in employment cases.

I can almost recite the statute. We had to restrict it to just the poor back 20 years ago. Now, if we have to come every year and readjust the provisos and add a restriction here and another restriction there, I can tell you now you are not going to get the money to do the basic job. You are going to quit Mr. Eakeley, and you are going to quit Ms. Mercado, and the program goes down the tubes.

I think that is very unfortunate, to come with an air of futility that this is local and we cannot do anything about it. That is not the case at all. They know, as Ms. Mercado says, we have got more cases than we can possibly handle.

You are saying we do not even have enough lawyers. And with those kind of problems, let us hold on to the initial mission of legal services and not start bringing these class action cases against a State of the Federal Government. We have got a restriction in law against bringing these kind of cases against any State. That is why you asked that.

#### MONITORING OF RESTRICTIONS BY LEGAL SERVICES CORPORATION

Mr. TULL. Senator, if I may speak to that. The local programs' compliance with the restrictions of both the act, the regulations, and the appropriations guidelines you are speaking of with regard to class actions are reviewed. The procedural restrictions which are in the appropriation and those procedures which are adopted by local programs are reviewed by the Corporation to make certain that they comply with the act and comply with the rider.

One of the things that we are working on now is to make certain that we have the capacity more frequently to and more cost efficiently to make those reviews and to help programs make certain they are in compliance.

The issue of the lawsuit, it is not an issue of us simply not being able to interact with the program in a way in which we impact on what it does, but the particular lawsuit which is being spoken to here involves—I do not know the details of it, but it clearly involves a complex issue regarding how the Government deals with a social welfare program.

## FUNDING CONSTRAINTS

Senator HOLLINGS. And Legal Services must deal with basic needs and not complex issues if it is going to survive as a Legal Services Corporation. I can tell you that now.

We are in a position up here in the Congress, after 10 years of cutting all the revenues and everything else, that in order to meet the spending caps is like tying two cats by the tail, throwing them over the clothesline, and letting them claw each other. We cannot get any money at all for Legal Services that I do not take from the FBI or from another one over here or another one over there.

And the public says "We are against taxes; read our lips." So we are not going to increase the revenues and we are having to cut these budgets to meet the caps. You folks come with a very dramatic presentation about all the unmet needs, but then we learn you are using the money to argue about a legal case in New Jersey.

That is not going to fly. You will lose your whole budget. You will find, rather than an increase, the Congress will be cutting Legal Services. And that is our problem.

## ADDITIONAL COMMITTEE QUESTIONS

Senator DOMENICI. I have four or five questions I will submit. They can answer them in due course.

Senator HOLLINGS. That is fine. We appreciate your appearance here this morning.

Mr. EAKELEY. Thank you, Mr. Chairman.

[The following questions were not asked at the hearing, but were submitted to the Corporation for response subsequent to the hearing:]

## QUESTIONS SUBMITTED BY SENATOR ERNEST F. HOLLINGS

## PROGRAM IMPACT OF FISCAL YEAR 1994 INCREASE

*Question.* Last year, we were able to provide the Legal Services Corporation with an appropriation of \$400 million—a \$42.7 million or 12 percent increase over the previous year.

Could you please describe the impact this increased funding has had on the Corporation and its delivery of legal assistance to the poor?

*Answer.* Grantees that received the largest fiscal year 1994 increases (more than 20 percent), will close an estimated 16 percent more client cases during calendar year 1994 than in 1993, will hire 250 new lawyers and will open as many as 25 new full and part-time offices. Grantees whose increases averaged about 10 percent will close approximately 7 percent more cases, hire approximately 100 new attorneys and open about 10 new offices. On the other hand, the Basic Field programs that received increases of less than 6 percent are expected to have relatively little or no increase in closed cases, will hire only a few new lawyers and will not open a significant number of new offices.

The impact of the fiscal year 1994 funding increase is not evenly distributed among the Corporation's grantees. Based on the funding formula contained in LSC's Congressional appropriation language for fiscal year 1994, increases varied among the 323 LSC grantees, ranging from 2.5 percent to 26 percent. The funding formula produced these disparities in order to equalize program funding levels per capita after taking into account the increase in overall poverty and the redistribution of poor people that was documented in the 1990 Census. While the overall increase in funding was 12 percent, 110 programs received an increase of less than 3 percent and only about one-half of the grantees received an increase of at least 12 percent.

Because data regarding the actual impact of the fiscal year 1994 funding increase will not become available until later on in the grant year (the calendar year), the Corporation polled some of its grantees. Three of the programs polled had experienced funding increases of 2.5 percent (no growth), ten of the programs received in-

creases from the Corporation of between 6.2 percent and 15.2 percent (moderate growth), and eight of the programs received increases between 23.3 percent and 26.4 percent (rapid growth). The impact of increased funding described by the polled programs is detailed in the following answers.

**Question.** Were you able to open any new offices with these increased resources? If so, how many?

**Answer.** Some of the rapid growth programs have been able to open new offices or re-open offices that were previously closed due to funding restrictions during the 1980's. Two of the programs plan to open three full-time and two part-time offices. Two moderate growth Native American programs were opening 3 new full-time offices, but none of the Basic Field Programs experiencing moderate growth opened a new office. One of the three no growth programs managed to redeploy its resources and open a part-time office.

**Question.** Were you able to hire additional attorneys in basic field programs? If so, how many?

**Answer.** Attorney hiring tended to mirror office openings. For instance, rapid growth programs plan to hire 39 additional full-time and 2 part-time lawyers. Moderate growth programs are hiring 12 additional full-time attorneys and 15 part-time attorneys. The three no growth programs report that they are planning to hire a total of 2 new attorneys.

**Question.** Do you have any estimates as to the increased number of poor people served as a result of this increase?

**Answer.** Based on the survey, LSC expects services to individual poor people to increase by about 200,000 as a result of the 1994 increase.

#### RECRUITMENT AND RETENTION OF ATTORNEYS

**Question.** What is the overall salary for Legal Services attorneys? How does this compare to say two years ago?

**Answer.** In 1993, the overall salary of full-time legal services staff attorneys averaged \$33,708. Two years ago the overall salary of legal services staff attorneys averaged \$31,346. A comparison of these salary amounts reflects an increase of approximately 7.5 percent over the two year time period, or approximately 3.7 percent each year.

The overall salary for other attorneys at legal services programs (comprised of Executive Directors, Deputy Directors, Directors of Litigation, Managing Attorneys, and Supervising Attorneys) averaged \$48,443 in 1993. Two years ago the overall salary of these attorneys averaged \$44,687. A comparison of these salary amounts reflects an increase of approximately 8 percent over the two year time period, or approximately 4 percent each year.

**Question.** With the increase in funding provided last year, was the Corporation able to increase salaries for its line attorneys?

**Answer.** In rapid growth programs reporting in the Corporation's poll, staff attorney salaries increased an average of 5.8 percent and increases ranged from zero to 20 percent. In moderate growth programs polled, increases averaged 7.5 percent, and ranged from zero to 16 percent. Among the three polled no growth programs, two gave no increases to their staff attorneys and the third gave a 3 percent increase. Since only a third of the calendar year has elapsed, additional increases might be made by some grantees later in the year.

**Question.** How long do your lawyers generally stay with the program?

**Answer.** On average, full-time permanent staff attorneys that are currently on board have remained with legal services programs approximately five years. This average is based on the total length of service of staff attorneys at legal services programs cumulative through 1993. Additionally, the average length of service of staff attorneys that left legal services during 1993 was three years.

The average tenure for other full-time permanent attorneys (comprised of Executive Directors, Deputy Directors, Directors of Litigation, Managing Attorneys, and Supervising Attorneys) at legal services programs is approximately eleven years cumulative through 1993. The average length of service of those attorneys that left legal services during 1993 was ten years.

**Question.** What's your opinion as to the quality of the legal representation being provided by legal services lawyers?

**Answer.** Despite severe funding constraints, legal services programs provide high quality, effective and economical legal services to their clients. However, there is still significant room for improvement. An infusion of sorely needed new funding would help many legal services programs to substantially increase their ability to provide more and better legal services to their clients. In addition, the Legal Services Corporation is experimenting with new approaches to evaluation of the quality

of legal services programs and the services they provide, as well as new methods of increasing that quality when evaluations suggest areas where improvement is needed. For example, the Comparative Demonstration Project is developing a comprehensive set of performance standards and using peer review techniques to assess quality and to measure program success in meeting those standards.

*Question.* Besides the Loan Repayment Demonstration Program, what other initiatives is the Board considering to improve LSC's ability to recruit and retain high quality attorneys?

*Answer.* Besides the loan repayment demonstration program the board has for consideration four additional initiatives to improve LSC's ability to recruit and retain attorneys. They are:

- Marketing legal services employment opportunities through law school career offices and through WESTLAW;
- Participating in or sponsoring attorney job fairs to promote awareness of legal services programs and public interest career opportunities;
- Establishing fellowships and summer internships to create new entry-level opportunities for law students and recent graduates interested in public service careers; and
- Awarding mini-grants to promote the creative efforts of field programs in developing or expanding their own recruitment and retention ideas.

Additionally, based on the results of a 1993 attorney recruitment and retention survey, 83 percent of the respondents reported problems with attracting and retaining minority attorneys, primarily due to low salaries and the burden of educational debt. As a result of this finding, LSC believes that a way to significantly promote recruitment and retention of minority attorneys is to help relieve the burden of educational debt through a student loan repayment assistance option.

#### BOARD INITIATIVES

*Question.* Your budget request includes \$2,000,000 for Board Initiatives—an increase of \$1.9 million over last year.

Your justification states that \$1.1 million of this requested increase will be used to "improve service delivery to the rural poor, recently arrived immigrants, and women and children suffering from AIDS".

Could you please describe in greater detail what efforts the Board will undertake to "improve service delivery to recently arrived immigrants?"

*Answer.* Neither the Corporation's Original Budget Request nor the Corporation's Revised Budget Request contain the quoted language regarding "recently arrived immigrants," and there is no current plan to use any Board Initiative funding for such a venture.

*Question.* Are any procedures in place to ensure that legal assistance is provided only to immigrants that are in this country legally? If so, what are they?

*Answer.* Yes, the Corporation has detailed procedures in place to prevent the use of LSC funds for representation of aliens who are in this country illegally and who are not entitled to representation under LSC appropriation provisions or the Immigration Reform and Control Act of 1986.<sup>1</sup>

Part 1626 of the Corporation regulations, 45 C.F.R. 1626 sets out exactly which aliens can and cannot be represented and provides detailed procedures to ensure that recipients do not represent illegal aliens. The regulation requires that all recipients utilize a form approved by LSC for applicants for assistance to attest to their U.S. Citizenship. If there is any reason to doubt the citizenship of an applicant, the recipient must verify that the applicant is a U.S. citizen. In order to be represented, aliens must produce specific documents to verify that they fall within one of the permitted categories for representation. Each recipient must maintain, for at least three years, records of all clients or prospective clients that were citizens or aliens and must keep a statistical record of the number of aliens found eligible and ineligible and the number of persons found eligible who subsequently were discovered to be ineligible. If a client is found to be ineligible, there are strict proce-

<sup>1</sup>Under the LSC appropriation provisions and the Immigration Reform and Control Act of 1986, use of LSC funds is only permitted for representation of the following categories of aliens: lawful permanent resident aliens; lawful temporary resident aliens under the seasonal agricultural worker (SAW) program; any alien who is either married to a U.S. citizen, the parent of a U.S. citizen, or an unmarried child under the age of 21 of a U.S. citizen assuming such alien has filed an application for adjustment of status to permanent residency and such application has not been denied; aliens granted asylum; aliens granted refugee status; aliens granted conditional entrant status; aliens granted withholding of deportation; H-2A nonimmigrant temporary agricultural workers (concerning the worker's employment contract); and replenishment agricultural workers (RAW's) admitted for temporary residence.

dures for discontinuing representation. Monitoring routinely reviews recipient compliance with these procedures.

*Question.* Could you please describe for the Committee some of the unique legal needs facing women and children suffering from AIDS?

*Answer.* As the AIDS epidemic has extended its reach to include increasing numbers of women and children, legal services programs have encountered a surge in both the demand for and the complexity of family law services. For example, New York City alone is expected to have 60,000 to 90,000 AIDS orphans by the year 2000.

Custody planning is consequently an important legal need of children and their mothers who have HIV/AIDS. Without early permanency planning, these children risk traumatic disruptions in their care, separation from their siblings and unnecessary placements in social service custody. A "standby guardianship" statute was enacted in New York two years ago and is being utilized by legal services programs to assist children and their mothers with HIV/AIDS.

Legal services programs throughout the country, and especially in urban areas, are also providing legal assistance in public benefits, employment and housing matters so that mothers with HIV/AIDS can maintain their income and housing, and hence their capacity to provide care for their children, for as long as possible.

#### EXPAND SERVICE TO PEOPLE IN INSTITUTIONS

*Question.* Your fiscal year 1995 increase includes \$2 million for Demonstration Grants to determine how best to expand service delivery to people in institutions—those who reside in nursing homes, in mental health and retardation hospitals, and young people held in detention facilities.

What types of legal assistance do these individuals require?

*Answer.* The institutionalized face legal problems similar to those who are not institutionalized, such as help in dealing with collection agencies or obtaining social security, medicare or other public benefits to which they are entitled. However, many of the laws and regulations affecting those who are institutionalized may differ from those affecting poor people generally and require social special knowledge and skills in order to provide effective representation.

In addition, the institutionalized face three unique categories of legal problems: (1) those connected with the process of institutionalization or commitment, such as determining medicaid eligibility to enable a person to enter a nursing home; (2) those arising as a result of residency in the institution, such as special educational and medicaid needs of residential foster care children or the rights of mentally ill patients to visit with their children; and (3) those connected with release from the institution, such as helping the mentally ill obtain housing or necessary support services.

Moreover, many of the institutionalized, such as nursing home residents (the largest group of institutional persons) are particularly vulnerable to financial or other exploitation.

The vast array of legal problems faced by the majority of the institutionalized were detailed in a 1981 study which the Corporation undertook in response to Section 1007(h) of the LSC Act. One part of this study examined the special difficulties of access and special legal problems of the elderly and persons with disabilities.

*Question.* Has there been an increased and unmet need from this particular population?

*Answer.* People in institutions have many of the same types of legal problems as other poor people. In addition, legal assistance is often needed for problems that are caused by the client's status as a person in an institution. Some people in institutions need legal help in order to allow them to leave the institution and live independently in the community.

In addition to lack of resources, access to legal services is a major problem. Either because of the condition that resulted in institutionalization (mentally handicapped), institutional rules or detention laws, the institutionalized cannot go to a service provider. Moreover, many of the institutionalized have difficulty in communicating effectively. In addition, often the institutionalized are not informed of services or aware of their legal rights or how to vindicate them. Finally, some institutions are located in remote areas.

The 1981 LSC study on the special access difficulties and legal problems of the elderly and persons with disabilities found that virtually all of the legal problems of those who were institutionalized were unmet. The study recommended that the Corporation seek earmarked funding in order to begin to meet these needs. Such funding was not provided by Congress nor have other funding sources filled the gap

since that study. Studies conducted by others, such as the American Bar Association, also indicate that the legal needs of the institutionalized are not being met.

*Question.* With the LSC restriction on involvement in criminal cases, are you concerned about possible criticism over representation of juveniles in detention facilities?

*Answer.* No. The funding sought by LSC under the initiative would provide representation to juveniles in detention facilities to help them handle any legal problems they faced as a result of their residency in the institution or their release from the institution, not the legal problems that put them there in the first place. However, it should be noted that the restriction on criminal representation does not bar legal services programs from representing juveniles in proceedings involving detention or imprisonment. In 1977, the Congress removed the previous prohibition against representation of juveniles in detention proceedings.

#### TRAINING

*Question.* I see where you are requesting a \$800,000 for new training—an increase of \$700,000 over the amount provided last year.

What are the particular training needs of LSC program staff?

*Answer.* The training needs of staff working in Legal Services grantees vary depending on the particular staff position. Here are some examples:

Staff attorneys during their first two years in a Legal Services program (a total of 771 people at the end of 1993), need basic lawyer skill training, to make up for deficiencies in practical education in law school, substantive law training in the particular fields in which the lawyer will first be representing clients and negotiation and alternative dispute resolution training, to increase their efficiency and reduce unnecessary litigation.

Staff attorneys with more than two years of experience (2,173 attorneys at the end of 1993) need trial practice training,<sup>2</sup> federal practice and procedure training, advanced substantive law training in fields of specialty to support professional development of senior attorney skills sufficient to handle more complex matters without intensive supervision, basic case supervision skills for oversight of new lawyer caseloads and community legal education training.

Supervising attorneys (346 attorneys) need supervisory skills training to develop effective teaching and case oversight capabilities appropriate to supervision of a team of staff attorneys and continuing professional education appropriate to a partner-level lawyer who must maintain knowledge and skills at the highest level of the profession.

Managing attorneys (794 attorneys) need management training to enable them to properly hire, supervise, administer and organize a separate office or substantive unit, including personnel management and development, leadership skills, community relations and basic financial management techniques. Managing attorneys often also need supervisory attorney training, as described above, since most managing attorneys also function as supervising attorneys.

Directors of Litigation (116 attorneys) need management training to help them guide the litigation staffs of large programs, keep track of legal issues in many fields, coordinate litigation on behalf of large numbers of clients and assess alternate litigation strategies for management and for the Board of Directors during priority setting.

Executive Directors and Deputy Directors (388 attorneys) need management and leadership training appropriate to the chief executive of a major nonprofit organization, including financial management, short and long-range planning, support for Board of Directors, assurance of compliance with grant conditions, relations with grant sources, fund raising, community relations, hiring, training and firing of staff, oversight of legal work and development of private attorney involvement.

Paralegals (1,862 people) need substantive law training for their areas of practice and practice skills training, including interviewing, document preparation, case investigation, administrative hearing procedure, direct and cross examination and preservation of the record.

Coordinators of Private Attorney Involvement projects (171 coordinators) need training in how to establish and operate a pro bono, contract and/or judicare program, including case intake and referral, development of a referral panel, recruitment in law firms and the bar in general, participation in bar association pro bono activities, recordkeeping for PAI regulation and oversight of cases assigned.

<sup>2</sup>For example, the training provided at Drake Law School to a few legal services lawyers each year at a cost of approximately \$800 per lawyer for a week-long training program.

Financial professionals (314 individuals) need financial management training, including budgeting, implementing, overseeing and reviewing an annual financial plan, accounting and bookkeeping performance under generally accepted accounting principals, compliance with the Corporation's regulations, Audit Guide and Fundamental Financial Criteria, cost accounting, efficiency innovations, productivity analysis, timekeeping strategies and the use of automated financial systems.

Secretaries and clerical employees (2,803 people) need front-line worker training, including interviewing and fact gathering during intake and effective referral to other agencies as well as basic secretarial, clerical and administrative skills training, including learning of more efficient word and data processing systems, file system development and maintenance, purchasing and office maintenance.

Finally, the other 457 employees of local grantees, including training coordinators, law clerks, senior aides and administrative assistants, need the basic and advanced skill and substantive training appropriate to their particular positions.

*Question.* This new Board appears to be placing a priority on the need for increased training of LSC program staff—have you found evidence that training has been lacking during the recent past?

*Answer.* Testimony before the Board during the last five months has been convincing that the current level of training for local program staff is inadequate, and has been for some time. In all types of positions, there has too often been learning by doing rather than by being taught the best ways to accomplish work for clients. Project directors have reported that their staff members need training to improve their skills and substantive knowledge. State support directors testified that they could not allocate either the staff time or the travel and on-site funding for training called for by their state planning efforts. National support centers cannot meet all requests to provide training because they are fully occupied representing clients, answering questions, providing research to local attorneys and preparing materials. Clients describe their attempts to obtain help from local program staff in community education, only to learn that commitments to other clients preclude the work that could be done.

When Congress passed the Legal Services Corporation Act, it obligated the Corporation to insure that training is provided sufficient to enable grantees to meet the special needs of eligible clients with special difficulties of access to legal services or special legal problems (including elderly and handicapped individuals). Section 1007(a)(2)(C)(ii). When the Corporation studied those special needs, in a series of careful reports pursuant to Section 1007(h) of the Act, training was constantly identified as a critical part of any strategy to meet the special needs of such groups as the institutionalized, the rural poor, Native Americans, people with limited English-speaking ability, the elderly and disabled and migrants.

The Corporation's 1981 budget for training was \$6.8 million, which included a substantial central staff and \$2 million for local training grants. Thirteen years later, the only vestige of that training capacity is the Regional Training Center budget of \$795,000. In 1994 there are no funds for local training grants (a proposed \$100,000 training line in the Corporation's fiscal year 1994 Budget Request for \$525 million was not funded).

During the last decade, while the Corporation has been able to provide very little training, the legal profession generally has been recognizing the importance of training as a standard part of a lawyer's professional life. An increasing number of states now require Continuing Legal Education as a condition for maintaining a practice of law. The inability of Legal Services programs to meet the need for this training will limit professional development and, according to testimony before the Board, contribute to the challenges of recruiting and retaining a staff of diverse capabilities and high quality.

An allocation of \$800,000 to new training through grants awarded on a competitive basis will make an important start to mending this gap in the delivery system and improving the quality and efficiency of client representation. While the amount seems large on an absolute basis, it comes to only \$75 per year per employee.

#### NATIONAL SUPPORT CENTERS

*Question.* I note where you have requested a \$6 million increase in funding for the 16 National and State Support centers—centers that coordinate legal services advocacy and assist field programs in providing efficient and effective representation of eligible clients.

*How is this proposed increase allocated among the 16 National Support centers?*

*Answer.* LSC currently funds 16 national support centers with an fiscal year 1994 appropriation of \$9,611,000. LSC has requested an increase for fiscal year 1995 of \$2,883,000, or about 30 percent, for national support. The proposed increase in fund-

ing will be used for three purposes. First, some existing centers will get increases to expand and improve their capacity to assist legal services advocates in providing efficient and effective representation to eligible clients and to begin to offset the effects of years of stagnation in national support funding. Second, since there has been no comprehensive review of the legal services program's support needs for more than 15 years, LSC is beginning an assessment both of clients' substantive legal needs and of the types of support services advocates require to provide effective representation. Finally, national support funding will be allocated to address the needs identified by LSC in its comprehensive review of support services.

*Question.* Is the allocation based on workload or will it be spread equally among all programs?

*Answer.* The increase will not be spread equally among all programs. Rather, as described above, it will be allocated, first, to those existing centers whose workload as well as funding history and other factors indicate a need to expand and improve their services to local programs, and, second, based on the findings of LSC's comprehensive review of national support needs, to existing centers and to address support needs identified by the review.

*Question.* One of these centers—The National Center for Immigrants' Rights—located in Los Angeles, California—received \$218,614 in fiscal year 1994.

Does this Center handle individual cases or simply serve as a resource center to field programs throughout the country?

*Answer.* LSC funds the National Immigration Law Center at an fiscal year 1994 funding level of \$218,614 to serve as a resource center to field programs throughout the country. As one of its support functions, the Center occasionally participates in litigation as lead or co-counsel, as well as in an advisory capacity, for local programs involved in litigating individual cases.

*Question.* Could you please describe the work performed by the Center for Immigrants' Rights?

*Answer.* The National Immigration Law Center responds to telephone or written requests for assistance from legal services advocates in immigration matters; publishes a practice and procedure manual and a newsletter for advocates; produces a directory of non-profit agencies which provide assistance to clients; and participates in local training events and co-sponsors national and regional training events on issues involving immigration law.

*Question.* Does the Corporation have procedures in place to ensure that assistance is only provided immigrants who are in this country legally? What are they?

*Answer.* Yes, the Corporation has detailed procedures in place to prevent the use of LSC funds for representation of aliens who are in this country illegally and who are not entitled to representation under LSC appropriation provisions or the Immigration Reform and Control Act of 1986.<sup>3</sup>

Part 1626 of the Corporation regulations, 45 C.F.R. 1626 sets out exactly which aliens can and cannot be represented and provides detailed procedures to ensure that recipients do not represent illegal aliens. The regulation requires that all recipients utilize a form approved by LSC for applicants for assistance to attest to their U.S. Citizenship. If there is any reason to doubt the citizenship of an applicant, the recipient must verify that the applicant is a U.S. citizen. In order to be represented, aliens must produce specific documents to verify that they fall within one of the permitted categories for representation. Each recipient must maintain, for at least three years, records of all clients or prospective clients that were citizens or aliens and must keep a statistical record of the number of aliens found eligible and ineligible and the number of persons found eligible who subsequently were discovered to be ineligible. If a client is found to be ineligible, there are strict procedures for discontinuing representation. Monitoring routinely reviews recipient compliance with these procedures.

<sup>3</sup>Under the LSC appropriation provisions and the Immigration Reform and Control Act of 1986, use of LSC funds is only permitted for representation of the following categories of aliens; lawful permanent resident aliens; lawful temporary resident aliens under the seasonal agricultural worker (SAW) program; any alien who is either married to a U.S. citizen, the parent of a U.S. citizen, or an unmarried child under the age of 21 of a U.S. citizen assuming such alien has filed an application for adjustment of status to permanent residency and such application has not been denied; aliens granted asylum; aliens granted refugee status; aliens granted conditional entrant status; aliens granted withholding of deportation; H-2A nonimmigrant temporary agricultural workers (concerning the worker's employment contract); and replenishment agricultural workers (RAW's) admitted for temporary residence.

## UTILIZATION OF LOS ANGELES EARTHQUAKE RELIEF FUNDS

*Question.* On April 14th, the President notified the Congress of his intention to make available funds to support emergency requirements arising from the consequences of the January 17th earthquake in southern California, the midwest floods of 1993, and the recent mudslide in Kentucky.

Within these funds, \$500,000 was for a payment to the Legal Services Corporation.

What are some examples of the emergency Legal Services provided victims of the earthquake in Los Angeles?

*Answer.* More than 250,000 earthquake victims qualified for special disaster Food Stamps; more than 14,000 residents applied for special housing help, and nearly 10,000 victims sought special disaster unemployment benefits. Legal services advocates worked with other relief programs to assure access of victims to appropriate benefits.

Within 3 days of the earthquake, attorneys experienced in disaster relief from the Western Center on Law and Poverty and the Legal Aid Foundation of Los Angeles conducted a special disaster benefits training program for 75 legal services advocates to assist victims in applying for benefits.

In the first 2 months after the earthquake, San Fernando Valley Neighborhood Legal Services made 200 special outreach trips to community sites and provided counsel to nearly 15,000 clients. Advocates distributed critical informational material in several languages and provided additional legal assistance to almost 5,000 families through special workshops.

Channel Counties Legal Services staff ran a special program to provide legal assistance on housing to agricultural workers. Programs collaborated with FEMA, HUD, and USDA to implement various disaster programs.

*Question.* Have you seen an increase in caseload in your programs in the L.A. area as a result of the earthquake?

*Answer.* There has been a tremendous increase in the caseloads of at least the above-mentioned programs as well as in Bet Tzedek Legal Services as a direct result of the earthquake. Thousands of victims have joined the ranks of eligible clients due to loss of employment and the family home.

*Question.* What types of cases were most typical in the L.A. area programs last year and how do these differ since the earthquake?

*Answer.* Of the Los Angeles area programs mentioned above, typically housing, income maintenance, and family law cases dominate the caseload. Last year, housing cases accounted for 42 percent of all cases; income maintenance about 21 percent; and family cases accounted for 19 percent of the caseloads.

This year housing continues to be the number one priority because of the tremendous damage to homes and other property during the earthquake. A very significant increase will surely occur in the income maintenance and consumer cases. Increases in income maintenance cases stem naturally from the demand for earthquake relief and other public benefits. But, as regards the consumer and finance cases, much of this work originates from the fraudulent activities, including price-gouging, of people who prey on disaster victims.

## LSC FIELD PROGRAM CASELOAD

*Question.* How many cases were handled by LSC advocates in 1993?

*Answer.* Advocates in LSC-funded programs "closed" 1,601,573 cases in calendar year 1993.

The Corporation does not regularly gather information on the cases "handled" by grantees, that is closed and pending matters. In order to provide that information, the Corporation polled a group of grantees regarding both the number of cases closed and the additional cases that were pending at the end of calendar year 1993. The programs also provided estimates of the number of individuals who directly benefitted from their client representation during 1993. The 10 programs (including one Native American program) that provided data in this area reported the following:

Number of cases closed .....	68,939
Number of cases handled .....	86,205
Number of individuals benefitting (approx.) .....	247,571

If the ratios between cases closed, cases handled and individuals benefitted are extrapolated to all grantees, the projection suggests that approximately 2 million cases were handled during 1993 and that approximately 5.8 million individuals benefitted.

*Question.* What is the breakdown, by case type, of these cases?

Answer.

*1993 closed cases*

Family .....	531,624
Housing .....	344,437
Income Maintenance .....	274,485
Consumer Finance .....	175,041
Miscellaneous .....	110,424
Health .....	52,430
Individual Rights .....	38,757
Employment .....	40,029
Juvenile .....	19,169
Education .....	15,177

From the 10 programs that provided data with respect to cases "handled," the distribution of cases by case type mirrors that for cases closed, with Family (38.6 percent), Housing (19.2 percent), Income Maintenance (18.6 percent), Consumer Finance (10.9 percent) and Miscellaneous (4.7 percent) comprising the top five case types.

*Question.* With the 12 percent increase in funding provided last year, how many cases do you expect LSC advocates to handle this year?

*Answer.* The 10 programs that provided data with respect to cases "handled" projected for calendar year 1994 reported the following numbers of cases to be closed and cases to be handled: Number of cases closed—76,915 (approx. 12 percent increase); number of cases handled—96,196 (approx. 12 percent increase).

The grantees that received the largest percentage increases, more than 20 percent, projected that their numbers of people helped would increase the most, with closed cases increasing by about 16 percent. The grantees whose funding increases averaged about 10 percent projected an increase in closed cases of about 7 percent. While the polled programs are not a representative sample of the grantees, an extrapolation of their experience suggests that grantees will close approximately 1.75 million cases during 1994, and will "handle" the cases of approximately 2.2 million individual clients.

*Question.* What are some of the ways in which your field programs would use the 25 percent increase in funding you are seeking from this committee for fiscal year 1995?

*Answer.* Among the ways that the grantees of the Corporation would use the requested 25 percent increase in Corporation funding in fiscal year 1995, the following will be common:

- Hire additional lawyers and paralegals, and support staff, in order to provide legal help to more individuals than is possible at the current funding level;
- Provide legal assistance in substantive areas which are currently not offered or offered on only a very limited basis under the program's priorities;
- Open new full-time and part-time offices in geographic areas (e.g., rural and suburban locations in which the program is currently unable to offer much legal assistance, sometimes by reopening offices that were closed during the 1980's because of funding cuts;
- Develop and expand outreach capacity, by utilizing more circuit riding, visiting more distant and isolated portions of the program's service area, establishing new 800 number services, and preparing materials by which clients can be educated to help themselves;
- Increase salaries, particularly for entry level positions, to permit recruitment of a diverse and capable group of new advocates most likely to provide high quality representation and to remain as legal services attorneys; and
- Increase efficiency of program services by increasing the capacity to use modern technology in case handling, supervision and research.

STATUS OF LSC REAUTHORIZATION LEGISLATION

*Question.* Authorization of the Legal Services Corporation expired in 1980. Annually, for the past fourteen years, this Committee has provided the legal authority for the Corporation to operate.

I note that your fiscal year 1995 request deletes all of the substantive and distributional provisions affecting the Legal Services Corporation that this committee has included in the past.

Why have you requested the deletion of what essentially is your operating authority?

*Answer.* LSC has proposed to delete the substantive and distributional provisions of the appropriations bill for fiscal year 1995 because Congress is expected to enact

a reauthorization of the Legal Services Corporation Act of 1974, as amended in 1977, during the current session. Currently, LSC's operating authority consists of the LSC Act, as amended and supplemented by the provisions of the fiscal year 1994 appropriations act. In the reauthorization process, these provisions will be considered and adopted with appropriate additions and deletions, so that the appropriations act for fiscal year 1995 should not need any such provisions.

*Question.* What is the current status of your reauthorization legislation?

*Answer.* Reauthorizing legislation for LSC (H.R. 2644) was introduced last fall in the House Judiciary Subcommittee on Administrative Law and Governmental Relations. Subcommittee markup is expected to occur the week of May 23, so that full committee markup may be scheduled soon after the Memorial Day recess. We hope that the bill will be considered on the House floor this summer. The Senate Labor and Human Resources Committee has not yet taken up LSC reauthorization but it is anticipated that the committee will do so this summer, so that full Senate consideration of the measure can occur before Congress adjourns in the fall.

*Question.* If the Corporation is not reauthorized by September, would you support the inclusion of LSC authorizing provisions in the conference report?

*Answer.* If a reauthorization of the LSC Act has not been enacted by September, LSC would support the inclusion of appropriate authorizing provisions in the fiscal year 1995 appropriations act and conference report.

#### STAFF TERMINATIONS IN MONITORING PROGRAM

*Question.* I understand one of the first actions taken by the new Board was the termination of 13 employees in your monitoring or program oversight division.

Could you please tell the Committee how these terminations came about?

The terminations of the employment of the 13 staff members in question came about as the result of an in-depth review of the Office of Program Evaluation, Analysis and Review (OPEAR) and the conclusion that LSC needed to revise substantially its monitoring and evaluation function to make it more effective to meet the Corporation's statutory mandate for program oversight. The Corporation found significant inefficiencies in how the monitoring function was carried out and found that significant parts of its oversight responsibilities were simply not being met. Furthermore, the division was operated in a fashion which impeded rather than supported effective internal communications necessary to support the oversight function. LSC thus was faced with having a large staff whose skills and experience were suited to an inefficient monitoring process and who in the judgment of management lacked the experience or skills and the flexibility to take on a broader approach to monitoring and evaluation.

The Legal Services Corporation Act sets forth two related oversight responsibilities for LSC. Those responsibilities are: (1) to "monitor and evaluate and provide for independent evaluations of programs supported in whole or in part under this title to insure that the provisions of this title and the bylaws of the Corporation and applicable rules, regulations and guidelines promulgated pursuant to this title are carried out" (LSCA §1006(d)); and, (2) with respect to grantee programs, to "insure the maintenance of the highest quality of service and professional standards," and "insure that grants and contracts are made so as to provide the most economical and effective delivery of legal assistance to persons in both urban and rural areas." (LSCA §1007(a)(1) and (3)).

Despite these statutory mandates, fundamental deficiencies have plagued LSC's monitoring efforts. These deficiencies were identified by Congress in six hearings held before relevant Congressional Committees since 1985. The Senate Appropriations Committee in 1986 and 1987 instructed the Corporation to take steps to address continuing problems: significant delays in the issuance of reports, unreasonable document requests and lack of consistent standards and procedures. Reports of the Senate Committee on Appropriations to accompany H.R. 5161 (1986) and H.R. 2763 (1987) (Attachments 1 and 2).

The Report of the House Committee on the Judiciary to accompany H.R. 2039 (Legal Services Corporation Act of 1991) summarized those and other shortcomings (Attachment 3). That Report found:

- LSC utilized intrusive monitoring that caused unnecessary disruption of client services, imposed huge financial and administrative burdens on both recipients and LSC, and was carried out in an unnecessarily hostile, adversary manner.
- LSC has not evaluated recipients to determine whether they were providing economic and effective legal services of high quality and failed to develop criteria for evaluations of overall program performance and quality.
- LSC has not promulgated standards and procedures for monitoring, evaluation and complaint investigation, though repeatedly requested to do so by Congress.

—LSC sought information that was protected against release to third parties by state ethical rules on client secrets and confidentiality, as well as personal or private information relating to individual employees not directly pertinent or necessary for monitoring.

The concerns expressed by Congress were echoed by the findings of the Audit Report on the Legal Services Corporation's Grantee Monitoring Function (May 5, 1994), conducted under the direction of the Corporation's Inspector General. That Report found:

- LSC had not developed standards for measuring grantee performance, and thus had not been effectively fulfilling its statutory mission.
- LSC's fiscal monitoring largely duplicated the work of independent public accountants who perform the grantees' annual financial audits.
- LSC's monitoring lacked essential quality controls and monitoring training and supervision were inadequate.
- LSC monitoring achieved relatively little in measurable benefits when compared with its costs.
- LSC monitoring concentrated little attention on the quality and effectiveness of its legal services grantees.

The Corporation has made substantial progress to define and analyze the problems which have plagued LSC's past monitoring practices and to consider changes necessary to correct these deficiencies. At its December 1993 meeting, after hearing at length from its own staff and from others knowledgeable about LSC's monitoring practices, the Board of Directors adopted a set of principles to guide LSC's future oversight activities. Those principles are grounded in an intention to develop a more cost-effective way to assure compliance with the LSC Act and regulations in order to ensure ongoing oversight of such issues. They also focus on and helping to improve the quality of work produced and the effectiveness and efficiency of program operation.

Shortly after assuming its responsibilities, in order to form its own judgment about LSC's conduct of program oversight and support, the Corporation's new management conducted a review of the two divisions responsible for these functions. Each division staff member was interviewed and operational procedures and the work produced were examined. The review confirmed the shortcomings identified by Congress and the Inspector General. LSC's monitoring process was inefficient and did not effectively oversee program statutory and regulatory compliance. Programs were subjected to a compliance review only approximately every 32 months. Enormous staff resources were expended in the production of lengthy but marginally useful written reports on those visits. There was limited communication among Corporation personnel about programs which were monitored and little use was made of the information obtained.

*Question.* Was your decision to let these individuals go a result of a shortfall in funding or a result of criticisms made in a recent Inspector General report on Monitoring activities?

*Answer.* As described more fully in the answer to the previous question, the decision to let the staff members in question go was based on an assessment of needed changes in the monitoring and evaluation function to address deficiencies which management identified in its review and which were reflected in the Inspector General's Audit Report on monitoring. The decisions were not based on the serious budget deficit which the new board inherited, but did reflect the heightened need for fiscal prudence because of that shortfall.

*Question.* I understand the Board is now looking at ways to reorganize and strengthen monitoring activities and program oversight. Could you please describe your current efforts in this regard?

*Answer.* The Legal Services Corporation has not adopted changes in monitoring policy and procedures. Its staff is thoroughly reviewing LSC's monitoring and evaluation policy and developing recommendations for possible changes. Staff will soon begin a field test of oversight procedures before submitting a recommendation to the LSC Board of Directors regarding the monitoring and evaluation function.

While determining the appropriate course to follow, the Corporation continues its oversight of programs, as follows:

*Completion of pending reports.*—When the new administration of the Corporation assumed its duties, a total of 71 draft or final reports of previous monitoring visits awaited completion. By March 25, 1994, 41 final reports and 30 draft reports were completed.

*Review of program audits.*—Audited financial statements have been submitted by 270 programs whose fiscal year ended December 31, 1993 and are being reviewed using streamlined procedures to make the process more efficient than it has been

in the past. As of the date of this submission, 130 such reviews have been completed.

*On-site visits to programs.*—Staff has identified programs which are currently in urgent need of assistance, and four on-site interventions have taken place or are planned immediately. An additional five on-site visits will be made to programs in June.

*Investigation of complaints.*—LSC staff continues to investigate complaints regarding alleged violations of the LSC Act and regulations from applicants who have been denied assistance, from third-party complainants and from current or former staff members.

*Approvals of consulting contracts and property purchases.*—LSC staff continue: (1) to approve or deny requests for approvals of consulting contracts and property purchases pursuant to 45 C.F.R. Part 1630; (2) to resolve or disallow potential questioned costs, pursuant to 45 C.F.R. Part 1630; (3) to grant or deny requests for waivers of the 12.5 percent Private Attorney Involvement requirement, pursuant to 45 C.F.R. Part 1614; (4) to approve or disapprove fund balance plans pursuant to 45 C.F.R. Part 1628; and (5) to modify and approve subgrants pursuant to 45 C.F.R. Part 1627.

While these oversight activities are going on, proposed additions to the monitoring and evaluation process are being formulated and tested for review and adoption by the LSC Board of Directors. The approaches being considered are being developed consistent with the approach taken in other agencies and departments of the federal government pursuant to the Government Performance and Results Act of 1993. Two significant areas of change are contemplated: (1) to increase the frequency and the cost-effectiveness of monitoring for compliance with the requirements of the LSC Act and Regulations; and (2) to evaluate programs' performance in order to meet the Corporation's responsibility to assure that the legal assistance that clients receive is of high quality and is delivered economically and effectively.

#### *Compliance Monitoring*

The objective of the changes under consideration with regard to compliance monitoring is to increase the capacity of the Corporation for more ongoing oversight of the programs for which it is responsible. The monitoring policies of the previous administration of the Corporation provided compliance checks only at intervals of about 32 months, when on-site visits to programs were conducted.

Plans are being developed and tested that contemplate much more thorough and frequent attention to compliance with the Act and regulations. Procedures are being developed which will involve at least three methods by which compliance matters will be addressed with funded programs.

One, on-site verification of compliance by the program's independent program auditor. Current LSC practice requires each grantee to have an annual financial audit conducted by an independent local auditor. Consistent with auditing practices of most Federal agencies, the independent auditor will be asked to verify compliance with those aspects of the regulations which do not call for judgment outside the expertise of the auditor.

Two, an Annual Desk Review conducted in-house by the staff of the Corporation which will obtain and assess information in order: (a) to establish that adopted policies and procedures comply with statutory and regulatory requirements; (b) to identify possible areas related to program operations calling for follow-up, including an on-site compliance audit; and (c) to identify areas in which LSC might provide technical assistance to the grantee. LSC will soon conduct desk reviews of thirty programs to test proposed procedures.

Three, on-site targeted compliance audits will be conducted by LSC staff to assure compliance with statutory and regulatory requirements that cannot be verified through either of the above processes.

#### *Performance Accountability*

Plans are being developed and tested for performance accountability of its grantees through on-site evaluations by persons with experience in the practice of law and who understand the operation of legal services programs. This is consistent with the recommendation of the Inspector General that performance audits of LSC grantees be conducted by persons with legal services experience. "It is axiomatic that a person is, in general, better-suited to evaluate how well an activity is being performed if that person has actual experience in performing that activity." LSC's Inspector General's Audit Report on the Legal Services Corporation's Grantee Monitoring Function (May 5, 1994) p. II-12.

As currently envisioned, performance reviewers will evaluate programs against a set of accepted performance measures. The performance measures are being devel-

oped drawing on the guidelines developed by LSC in 1993 as part of the Comparative Demonstration Project. Consistent with common practice in the area of performance accountability, the performance evaluation will begin with a thorough self-assessment conducted using an instrument developed by the Corporation.

Performance accountability is an aspect of program oversight which has been the subject of increasing attention in the Federal Government and a concern of Congress with regard to LSC for a number of years. In 1992, the House Judiciary Committee found that because of a failure to evaluate whether recipients are providing economical and effective legal services of high quality, "the Corporation is simply not in the position to make an objective determination of whether a recipient is faithfully meeting the goals of the Act." Report of the House Committee on the Judiciary to accompany H.R. 2039 (Legal Services Corporation Act of 1991). This concern is also expressed in the LSC's Inspector General's Audit Report on the Legal Services Corporation's Grantee Monitoring Function (May 5, 1994).

The Government Performance and Results Act of 1993 (GPRA) reflects the same approach to performance accountability currently being considered at LSC. In adopting the GPRA, Congress found that "Federal managers are seriously disadvantaged in their efforts to improve program efficiency and effectiveness, because of insufficient articulation of program goals and inadequate information on program performance." (Public Law 103-62 §2(a)(2)). Among the purposes articulated by the Act is to "improve Federal program effectiveness and public accountability by promoting a new focus on results, service quality, and customer satisfaction." (Public Law 103-62 §2(b)(3)).

#### ATTACHMENT NO. 1

(Excerpt From Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies appropriation bill, 1987, Senate Report No. 99-425, 99th Congress, 2d session)

##### MONITORING

The Committee directs that all monitoring, auditing and evaluation of grantees and contractors conducted with funds provided in this appropriation shall be carried out so that:

- Monitoring reports are prepared promptly and all reports are released to the grantee or contractor being monitored;
- Site visits are conducted only upon reasonable notice by the Legal Services Corporation to the grantee or contractor;
- Requests for production of documents and other materials are reasonable and pertinent; and
- Consistent standards and procedures are used for all grantees and contractors.

The Committee also directs that the Legal Services Corporation provide 1985 monitoring reports to Community Legal Services, Philadelphia, PA, and Keystone Legal Services, State College, PA.

#### ATTACHMENT NO. 2

(Excerpt From Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies appropriation bill, 1987, Senate Report No. 100-182, 100th Congress, 1st session)

##### MONITORING

As it did in fiscal year 1987, the Committee directs that all monitoring, auditing and evaluation of grantees and contractors conducted with funds provided in the appropriations shall be carried out so that:

- Monitoring reports are prepared promptly and all reports are released to the grantee or contractor being monitored;
- Site visits are conducted only upon reasonable notice by the Legal Services Corporation to the grantee or contractor;
- Requests for production of documents and other materials are reasonable and pertinent; and
- Consistent standards and procedures are used for all grantees and contractors.

In particular, the Committee remains concerned over the failure of the Corporation to produce final monitoring reports in a timely fashion. The process of monitoring programs funded through the Legal Services Corporation to ensure compliance with established rules and regulations if properly structured can be an extremely important tool in assisting programs to more effectively and efficiently serve poor clients. However, the Committee notes that the monitoring of a program is not con-

cluded until that program receives a final written report. In response to questions raised by the Committee about outstanding final monitoring reports for 1985, 1986, and 1987, the Corporation in May 1987 indicated that of the 230 onsite reviews conducted in 1985, 49 final reports remain outstanding; of the 197 onsite reviews conducted in 1986, 123 final reports remain outstanding; and of the 16 onsite reviews conducted in January 1987, 16 final reports remain outstanding. A 42-percent failure rate to issue final reports is clearly unacceptable and undermines the entire process. Therefore, the Committee directs the Corporation to take immediate steps to complete all outstanding reports by February 1, 1988, and to report to the Committee thereon.

ATTACHMENT NO. 3

(Excerpt from House Committee on the Judiciary, House Report 102-476)

LEGAL SERVICES REAUTHORIZATION ACT OF 1991

The Committee on the Judiciary, to whom was referred the bill (H.R. 2039) to authorize appropriations for the Legal Services Corporation, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

(2) The Corporation does not evaluate recipients to determine whether they are providing economical and effective legal services of high quality. Instead, monitoring focuses almost exclusively on ensuring compliance with the Act and regulations; indeed, the focus has often been on whether a recipient has complied with technical documentation or reporting requirements, not whether it has actually violated a substantive provision of the law. The Corporation is simply not in the position to make an objective determination of whether a recipient is faithfully meeting the goals of the Act.

(3) The Corporation continues to utilize a monitoring process that causes unnecessary disruption of client services, imposes huge financial and administrative burdens, and is often carried out in a hostile, adversarial manner. Few of the monitors recently used have had prior legal services experience or knowledge of poverty law; many have not actively practiced law before courts or administrative agencies or operated a nonprofit legal organization.

(4) The Corporation continues to undertake investigations of unverified complaints without first informing the affected recipient of the charges and without providing an opportunity for the recipient to fully respond. There continue to be occasions where the information provided to recipients fails to specify which provision of the Act or regulations were allegedly violated and to indicate with any specificity the case, event or circumstances in which the violation allegedly occurred or that precipitated the investigation. If a complaint is resolved favorably to the recipient, which is true in the vast majority of cases, the recipient often is not informed. In several instances, LSC has found violations based on new and previously unannounced interpretations that it has made of the Act or regulations which are often inconsistent with prior LSC interpretations.

(5) During monitoring and complaint investigations, the Corporation has sought information that is protected against release to third parties by state ethical rules on confidentiality. This has occurred even where the state ethical authority has ruled directly on the very issue and circumstance involved. The Corporation continues to ignore section 1006(b)(3) of the LSC Act which precludes it from obtaining access to information protected by state ethical rules. The Corporation has also demanded access to private and highly personal information on individual employees contained in confidential personnel files; it has sought access to such information even when it is protected from disclosure by state law or existing collective bargaining agreements. In fact, the Corporation has sought access to such files even when the information is available elsewhere and is not directly pertinent or necessary for monitoring.

The Committee rejected proposals to prohibit administrative representation in rulemaking and policy development. Restricting such representation would deprive the poor of access to critical decision making which those who can afford an attorney have. In fact, in today's world, prohibiting representation in rulemaking for is difficult to separate from representation in court or in agency adjudicatory proceed-

ings. Administrative representation at the outset frequently obviates the need for expensive and time consuming litigation over the substance or process of administrative rulemaking and policy development. Restricting representation also deprives administrative agencies of useful information about how proposed policies will affect certain clients and whether such policies are workable.

The governing bodies of recipients are expected to develop appropriate policies to guide employees or other staff in abiding by the provisions and restrictions on agency representation. The Corporation may not impose additional procedural or substantive requirements on such agency representation.

#### SEC. 6—ENFORCEMENT, SANCTIONS AND MONITORING

A central purpose of the Committee bill is to provide the Corporation with the tools that it needs to ensure that recipients comply with the law and provide high-quality, economic and effective legal assistance. However, the Committee recognizes the need to ensure fairness in Corporation monitoring, enforcement and evaluation and to preserve the fundamental concept of local control over recipients' internal affairs. Because current law has proven inadequate to meet these goals, section 6 of the Committee bill makes substantial revisions and additions to those sections of the existing LSC Act involving enforcement, sanctions and monitoring.

#### PROBLEMS AND INADEQUACIES

Since 1984, six oversight or reauthorization hearings have been held before the Subcommittee on Courts, Civil Liberties and the Administration of Justice (which had jurisdiction over the Corporation until 1989) and before the Subcommittee on Administrative Law and Governmental Relations. Testimony at these hearings and information reviewed by the two Subcommittees documented a number of problems with and inadequacies in the area of monitoring, sanctions and enforcement. While some of the problems discussed in the 1985 Committee Report [H. Rep. 99-448, 99th Cong., 1st Sess. at pp. 19-23 (Dec. 18, 1985)] have been corrected, many of the most serious deficiencies remain. The Committee's concerns are as follows:

(1) The Corporation has failed to promulgate public standards and operating procedures for monitoring, evaluation and complaint investigation even though this Committee and the appropriations committees have repeatedly suggested that it do so. The procedures used by LSC for monitoring and complaint investigation appear, and often have been, arbitrary and abusive.

\* \* \* \$14,377 of allegedly improper expenditures was involved.<sup>12</sup> In another case, the Corporation sought to reduce the National Center for Youth Law by 9.95 percent of its LSC grant for participation in a case that was supported entirely from California IOLTA ("Interest on Lawyer Trust Account") funds. The California IOLTA commission specifically approved the use of its funds for the case after LSC asserted the authority to give its own interpretation of the California IOLTA statute. The reduction was enjoined by a Federal district court in *National Center for Youth Law v. LSC*, 749 F. Supp. 1013 (N.D. Cal. 1990), and LSC did not appeal.

(7) The Corporation also has argued that it does not have to provide an administrative hearing under section 1011 when it unilaterally determines there are no issues of fact, even though section 1011 clearly provides an opportunity for a hearing in any termination or denial of refunding, regardless of the nature of the issues in dispute.

(8) The Corporation has attempted to impose restrictions on representation of eligible clients that are not authorized by Congress and go beyond the authority specifically delegated to LSC under the Act. LSC also proposed regulations, barred by Congress through appropriation riders, that would have imposed unauthorized and detailed requirements on governing body composition and appointment, the use of

<sup>12</sup> CRLA contested the LSC allegations, pointing out that one of the cases that LSC alleged violated the abortion restriction involved family planning health care and contraceptive services under statutes that absolutely prohibited use of such funds for abortion. Applying the abortion restriction to such a case was novel, unique and without precedent. In the other case, CRLA demonstrated that none of the funds used were LSC or private, but were provided to CRLA by California's IOLTA program. Funds generated by California's IOLTA program are "public funds" within the meaning of section 1010(c) of the Act, which permits such funds to be used "in accordance with the purposes for which they were provided" and are not subject to many restrictions that apply to LSC funds, including those related to abortion. CRLA ultimately decided not to contest the LSC final decision to impose a one-time reduction of \$14,377 because of "its desire to avoid the additional expense and time involved in such a challenge, as well as its desire to move forward in a cooperative working relationship with LSC." See Letter of January 17, 1991 from Martin Glick, CRLA's attorney, to LSC President David Martin.

IOLTA and private funds, and the recapture of attorneys' fees recovered by recipients under state and Federal fee-shifting statutes.

To prevent such problems from continuing in the future, the Committee believes that current law must be changed.

#### PROVISIONS OF THE COMMITTEE BILL

Section 6 is divided into four subsections. The first three subsections strengthen and clarify current law and address the problems and deficiencies discussed earlier in this section of the report. The fourth is technical in nature.

##### Section 6(a)

Subsection (a) revises section 1006(b)(1)(A) [42 U.S.C. 2996e(b)(1)(A)] of the LSC Act to provide comprehensive tools for enforcement, including reasonable monitoring, effective and timely complaint investigations, and independent evaluations to determine whether programs are providing comprehensive, economical and effective legal assistance of high quality to eligible clients.

#### QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

##### FIELD PROGRAMS VS. OTHER PROGRAMS

*Question.* The Legal Services Corporation is requesting an increase of \$100 million, or 25 percent, from the 1994 level of \$400 million. However, the Basic Field Programs would receive less than a 25 percent increase, while other programs of the Corporation would receive more.

If the primary focus of the Legal Services Corporation is to deliver legal services directly to the poor, why shouldn't the Field Programs receive most—if not all—of the increase?

*Answer.*

(Dollars in millions)

Program	1994	1995	Percent increase
Field programs .....	\$364.0	\$447.3	22.8
Other direct service .....	3.8	5.2	33.7
Support centers, other .....	22.8	32.8	43.6
Administration and Board initiatives .....	10.6	14.1	32.7

The primary focus of the Legal Services Corporation is to deliver legal services directly to poor people. Consequently, of the \$100 million increase requested by LSC for fiscal year 1995, field programs are budgeted to receive \$83,723,000, or most (83.7 percent) of the increase. Other direct delivery categories are budgeted for an increase of \$2,480,000, for an additional 2.5 percent of the increase, so that 86.2 percent of the requested increase is slated for the direct delivery of legal assistance.

Field and other direct delivery programs are not budgeted to receive all of the increase because additional funding will be needed, first, to provide adequate substantive support for the direct delivery of legal services to clients and, second, to provide for management and administration of the increased appropriation. Support for the delivery of legal assistance is budgeted to receive \$10,025,000, or 10 percent of the increase. Corporation management and Board initiatives administration is budgeted to receive \$3,772,000 or 3.8 percent of the increase.

LSC has budgeted a substantial increase for support for the delivery of legal assistance because recipients funded in this category provide critically important direct and indirect services to poor people and support the work of lawyers and paralegals who are providing direct services. The state and national support centers represent clients directly, co-counsel on cases with grantees, advise local lawyers and paralegals on questions of law that have arisen during client representation, and prepare practice and substantive manuals that are used by local programs in work for clients. These centers provide the essential specialization that enables legal services practitioners to provide effective, high quality legal services in an efficient and economical manner.

In addition, computer assisted legal research provides efficient and rapid research assistance to local lawyers regarding their pending cases. The training centers coordinate the delivery of training that directly improves the quality, effectiveness and efficiency of local program representation; the skills and substantive information

transmitted during training are used by local lawyers in their work for clients. The Clearinghouse disseminates current case information and materials available in no other way so that local advocates can use relevant citations and arguments for their clients. The three new categories of other support, new training, client involvement and innovations for improved efficiency all involve grants that will primarily be awarded to field programs to enhance and improve the direct delivery of services to clients.

The support centers' critical role in assisting local program clients and advocates has not been able to keep up with the needs of the local delivery system. During the 1980's, training funds were almost completely eliminated and support center funding increases lagged behind growth in local programs funded by both the Corporation and by non-Corporation sources. Moreover, new substantive areas of great importance emerged during the past decade and were not appropriately addressed by development of new substantive expertise and focussed support. The Corporation's requested increase for support services will address these problems and enhance the direct delivery of services to poor people.

#### REAUTHORIZATION

*Question.* For many years this subcommittee has served as both the appropriations and authorization source for the Legal Services Corporation.

We've been told many times in the past that the Authorizing Committees, in this case the Education and Labor Committee, will be seeking to reauthorize the Corporation in the near future.

Are you seeking a reauthorization for fiscal year 1995?

*Answer.* LSC is actively seeking reauthorization during the current session of the Legal Services Corporation Act.

*Question.* What is the status of the authorization process?

*Answer.* Reauthorizing legislation for LSC (H.R. 2644) was introduced last fall in the House Judiciary Subcommittee on Administrative Law and Governmental Relations. Subcommittee markup is expected to occur the week of May 23, so that full committee markup may be scheduled soon after the Memorial Day recess. We hope that the bill will be considered on the House floor this summer. The Senate Labor and Human Resources Committee has not yet taken up LSC reauthorization but it is anticipated that the committee will do so this summer, so that full Senate consideration of the measure can occur before Congress adjourns in the fall.

#### REORGANIZATION

*Question.* Recently the Committee received a notification that the Legal Services Corporation is engaged in a reorganization of its operating divisions. The letter is intended to serve as a reprogramming notification.

However, we are not told the details of the reorganization, only that it is ongoing.

I understand that as part of that reorganization, 13 employees of the 59 employees in the monitoring division were terminated.

How will the structure of the Legal Services Corporation change as a result of this reorganization? Will you be providing the details of this reorganization to the committee?

*Answer.* The Legal Services Corporation has not yet formally decided how its structure might change to implement the changes in monitoring and evaluation policy which are now being considered by LSC management. Management's recommendations will be presented to the LSC Board of Directors in June for possible adoption in July. The LSC will keep the Committee fully informed regarding changes in monitoring and evaluation policy and will provide a detailed reprogramming notification if it determines to make permanent changes in its structure.

The changes being considered in monitoring and evaluation policies and procedures have been described in response to the questions asked of the Legal Services Corporation by Senator Hollings. Because they relate to the ultimate structure of LSC, that answer is summarized here.

Proposed additions to the monitoring and evaluation process are being formulated and tested for review and adoption by the LSC Board of Directors. Two significant areas of change are contemplated: (1) to increase the frequency and the cost-effectiveness of monitoring for compliance with the requirements of the LSC Act and regulations; and (2) to evaluate programs' performance in order to meet the Corporation's responsibility to assure that the legal assistance that clients receive is of high quality and is delivered economically and effectively.

### *Compliance Monitoring*

The changes under consideration with regard to compliance monitoring would increase the capacity of the Corporation for more ongoing oversight of programs. Plans are being developed and tested that contemplate much more thorough and frequent attention to compliance with the Act and regulations. Procedures are being developed which will involve at least three methods by which compliance matters will be addressed with funded programs: (1) on-site verification of compliance by the program's independent program auditor; (2) an annual desk review of documents available to LSC conducted in-house by the staff of the Corporation; and (3) on-site targeted compliance audits conducted by LSC staff.

### *Performance Accountability*

Plans are being developed and tested for performance accountability of its grantees through on-site evaluations by persons with experience in the practice of law and who understand the operation of legal services programs. As currently envisioned, performance reviewers will evaluate programs against a set of accepted performance measures. Consistent with common practice in the area of performance accountability, the performance evaluation will begin with a thorough self-assessment conducted using an instrument developed by the Corporation.

Performance accountability is an aspect of program oversight which has been the subject of increasing attention in the Federal Government and a concern of Congress with regard to LSC for a number of years. In 1992, the House Judiciary Committee found that because of a failure to evaluate whether recipients are providing economical and effective legal services of high quality, "The Corporation is simply not in the position to make an objective determination of whether a recipient is faithfully meeting the goals of the Act." Report of the House Committee on the Judiciary to accompany H.R. 2039 (Legal Services Corporation Act of 1991). This concern is also expressed in the LSC's Inspector General's Audit Report on the Legal Services Corporation's Grantee Monitoring Function (May 5, 1994). The Government Performance and Results Act of 1993 (GPRA) reflects the same approach to performance accountability currently being considered at LSC.

### CLIENT INVOLVEMENT

**Question.** The 1995 Budget Request includes \$1.7 million in a new program entitled "Client Involvement". The Legal Services Act already requires that one-third for the Board members of local legal services Organizations consist of eligible clients.

How would these funds be used?

**Answer.** The 1995 budget request of \$1.7 million for "client involvement" will be used to identify and fund innovative approaches by field programs and their clients to improve delivery of legal services, promote community legal education and other preventive approaches, and improve the capacity of grantees to more effectively and efficiently set priorities that address the most pressing needs of the poor in the areas served by the grantee.

Because resources are inadequate to meet the demand for service, grantees are required by Section 1007(a)(2)(C) of the LSC Act to set priorities for the types of cases handled and services that will be provided. Client involvement in setting priorities is essential so that recipient priorities reflect the most pressing needs of the poor in the service area. These funds would be available to examine how clients can be most effectively involved in setting priorities and promote those approaches which are most successful.

In addition, these funds would be available to develop, evaluate and promote self help approaches to legal problems faced by the poor so that grantees could better utilize the limited resources available to meet the large demand. LSC will identify effective projects and programs which involve clients in training, skills development, and service to their communities through self-help approaches. Clients will be trained to serve as advocates for themselves and others in some of their legal and administrative disputes which are currently handled by legal services lawyers, like consumer, family, public benefits and landlord/tenant matters.

This funding will stimulate other innovative initiatives as well. An example is "Project Dandelion" which is described in the revised budget request for fiscal year 1995. This community legal education initiative is aimed at providing clients with the tools to get off public assistance and find meaningful employment opportunities. The project focuses on peer counseling, a means through which clients are taught ways to help other low income people achieve the goals of the initiative.

These projects are examples of the types of opportunities which allow clients to participate in addressing their legal needs, and also take advantage of finding permanent solutions to their problems.

*Question.* Why are these funds needed, if legal services organizations already include significant representation by eligible clients?

*Answer.* Client participation in programs beyond governing body membership is necessary in order to ensure that recipients are accountable to clients and set priorities that identify the most pressing needs in a service area. Yet, today, client involvement is limited almost exclusively to membership on recipient boards. These earmarked funds are needed to enable clients to effectively participate in setting priorities and to assist in innovative and more cost effective approaches to delivering services. Such enhanced client involvement will not only improve accountability to clients and provide new ways of meeting client demand, but also enable clients to be more effective members of their boards.

#### NATIONAL SUPPORT CENTERS

*Question.* Aside from support for local legal services organizations, the Corporation is providing \$9.6 million in funding for 16 national support centers in 1994, and \$10.6 million for state support centers. The budget asks for a total of \$26.2 million to fund national and state support centers in 1995, an increase of \$6 million or almost 30 percent.

What are the roles of the national support centers? Do they provide direct legal assistance to the poor?

*Answer.* LSC funds 16 national support centers, which specialize in substantive law areas of particular concern to poor people, such as housing and consumer law, or in the problems of particular groups of individuals, such as children or the elderly. National support centers provide direct legal assistance to the poor when they serve as counsel or co-counsel in litigation, when they appear before administrative agencies on behalf of clients, and when they analyze legislation and regulations that affect local programs' clients. National support centers also respond to telephone and written requests for specialized assistance from local legal services advocates, maintain brief banks and other resource materials, conduct substantive training and publish practice manuals, newsletters and other specialized publications.

*Question.* Do the national support centers compete for funds, or are they regularly funded on an annual basis?

*Answer.* The national support centers receive annualized grants from LSC and do not compete for funds. In recent years, the existing 16 national support centers have received pro rata shares of any increase in the national support line item of the LSC appropriations.

*Question.* How do the state centers differ from the national support centers?

*Answer.* The national support centers provide specialized services in either a substantive law area, like housing or consumer law, or for a particular population, like Native Americans or the elderly, to clients and advocates throughout the country. In contrast, state support centers provide assistance to clients and local program advocates on issues of statewide significance and in matters of practice and procedure specific to their states.

**SECURITIES AND EXCHANGE COMMISSION**

**STATEMENT OF ARTHUR LEVITT, CHAIRMAN**

**ACCOMPANIED BY:**

**JAMES M. McCONNELL, EXECUTIVE DIRECTOR**

**LAWRENCE H. HAYNES, ASSOCIATE EXECUTIVE DIRECTOR [FINANCE]**

**SIMON M. LORNE, GENERAL COUNSEL**

**KATHRYN FULTON, DIRECTOR, OFFICE OF LEGISLATIVE AFFAIRS**

**LINDA C. QUINN, DIRECTOR, DIVISION OF CORPORATION FINANCE**

**WILLIAM R. McLUCAS, DIRECTOR, DIVISION OF ENFORCEMENT**

**BRANDON BECKER, DIRECTOR, DIVISION OF MARKET REGULATION**

**BARRY P. BARBASH, DIRECTOR, DIVISION OF INVESTMENT MANAGEMENT**

**INTRODUCTION OF CHAIRMAN LEVITT**

Senator HOLLINGS. We will now hear from the Chairman of the Securities and Exchange Commission, Mr. Arthur Levitt.

For fiscal year 1995, the Securities and Exchange Commission is requesting an appropriation of \$306 million. The budget proposes to raise various section 6(b) stock registration fees, but to deposit these fees in the general fund of the Treasury rather than allowing the Commission to retain them for operations.

Chairman Levitt, we welcome you to the committee and we have your statement included in the record in its entirety and you can deliver it or highlight it as you wish.

**OPENING STATEMENT**

Mr. LEVITT. I am delighted to be here today on behalf of the SEC to testify on our 1995 budget request of \$309.6 million. This is my first opportunity to appear before this subcommittee and during the course of the hearing I hope to explain why the Commission needs increased funding and staffing levels to keep pace with the explosive growth in the industry that we regulate.

Most importantly, I am here to request your continued assistance in obtaining the funding that the Commission critically needs to protect investors in our rapidly growing securities markets.

Since I became Chairman 9 months ago, my fellow Commissioners and I, working with the SEC's exceptional staff, have accomplished a great deal. Before I address our proposed funding and staffing levels, I would like to take just a moment to highlight a few of the things that the staff has focused on.

**FOREIGN ISSUERS**

I returned just 2 days ago—so I may seem a little bit foggy—from Beijing, China, where I joined my Chinese counterparts in the Great Hall of the People to sign a memorandum of understanding

that will make it possible for Chinese companies to list their shares in the United States and help assure the preeminence of our capital markets. I could not help but wonder, when I saw sitting across the table from my counterpart, who was a member of the Red Guard for 12 years and a student at the University of Moscow for 5 years, at his calling upon a capitalistic mechanism to help salvage the Chinese economy. Truly extraordinary.

We have taken other important steps to encourage foreign issuers to list their shares in the United States. It is a major initiative of the Commission this year. As of a couple of days ago, we had 607 companies listed in the United States, which is more than the London Stock Exchange, Frankfurt Stock Exchange, Paris Bourse, or Tokyo Stock Exchange. We have really made great, great strides by going out and getting these companies to access our capital markets.

#### INDIVIDUAL INVESTORS PROTECTION

Given that the Commission was established to protect the individual investor, that is the major emphasis, the major focus of this Commission, we have undertaken a number of initiatives to refocus attention on the special needs of individual investors.

First, I have asked 19 prominent citizens, including the Securities Commissioner from the good State of New Mexico, to serve on a consumer advisory committee that will include representatives from investor organizations, national consumer advocacy groups, corporations, and other industry specialists. This committee's mission will be to provide the Commission with advice and recommendations regarding a variety of important policy matters from the perspective of the individual investor.

Almost everything that the Commission does relates to individual investors. It seems to me that we can create the best kind of environment by working with individual investors on some of the great issues that concern the Commission.

#### MUNICIPAL SECURITIES MARKETS

Second, we propose to fundamentally improve the integrity of the municipal securities markets through the expansion and enhancement of information that individuals can obtain about this important market. Our goal is to ensure that individuals will know precisely what they are buying and what they are paying, and whether the bond is rated or not rated.

#### ABUSIVE SALES PRACTICES

Third, we have focused a great deal of attention on combating abusive sales practices by rogue brokers, who seem to come back to the industry. The industry pays premiums for these people who prey on the public and we are in the process of doing something about that.

#### MUTUAL FUND PURCHASES

Finally, we have taken the lead in identifying the extent to which individual investors who purchase mutual funds through banks may be confused about the nature of their investment. As

more and more individuals participate in the securities market through mutual funds, I think it is critical that we do all we can to eliminate the kind of confusion that is suggested by a survey that the SEC conducted. Our survey showed that 66 percent of the people who bought money market mutual funds through banks believed that those funds were insured by the banks.

#### LAW ENFORCEMENT ACTIONS

These issues and other law enforcement actions constitute an ambitious agenda. The Commission recently instituted proceedings against Prudential Securities for allegedly defrauding investors who purchased limited partnership interests during the eighties. As a result of the agency's action, Prudential consented to establish a fund with an initial deposit of \$330 million for the benefit of these investors. If we are going to continue our tradition of excellence in the protection of investors, we need additional resources.

#### RESOURCE NEEDS

The most important feature of the President's 1995 budget request is its reliance on a new fee system for the SEC. As you know, the SEC is a significant profit center for the Federal Government. We generate far more revenue for the U.S. Treasury than we receive in funding.

Under this budget proposal, the Commission would be self-funded since fee increases would offset the agency's appropriation, to a net funding level of zero. The Commission strongly supports the creation of a self-funding mechanism.

However, for this proposal to take effect, Congress must implement a new fee system, either in the appropriations bill or through authorizing legislation. Absent a new fee system, the Commission will need to be funded from general appropriations. The likelihood of the Commission receiving 100 percent of its funding from appropriations is remote, given the limitations on spending and the efforts to reduce the budget deficit. It is critical, therefore, that either the funding method contained in the President's budget, or some other arrangement of offsetting fee collections, be approved during this budget process.

I wish to stress that the Commission will remain subject to full congressional oversight and budgetary controls under any new fee system.

#### FISCAL YEAR 1995 REQUEST

Our 1995 budget request of \$309.6 million consists of an appropriation of \$306 million and \$3.6 million in prior-year unobligated funds, and includes a staff increase of 271 full-time equivalents. I believe strongly that the resources requested are critical to the agency. Without these increases, the agency cannot meet its mandate of protecting investors and enforcing the Nation's securities laws.

I know that you gentlemen hear these arguments day in and day out. I feel a little bit awkward about coming before you and saying, in the face of limited resources, we need more. I have thought long and hard about this and have gone over this over and over again.

I really believed, having spent 15 years in the securities business, that I had seen everything, every kind of malfeasance known. Since I came to the Commission 9 months ago, a day does not pass when I do not see some new kind of scam, some new opportunity where investors are being cheated. I believe that this kind of budget is essential to our just being able to tread water and to stay on top of the situation.

So it is in that spirit that I have come before you. I hope that I can answer some of your questions. I certainly appreciate the efforts of this subcommittee in the past, and I know that we all share a common goal.

#### PREPARED STATEMENT

I want to work with you on the budget. I believe the Commission has used its resources effectively, trying to run the Commission as someone would run a business—thinking about the bottom line. Obviously there are problems involved and I would like to discuss them with you.

[The statement follows:]

#### STATEMENT OF ARTHUR LEVITT

Chairman Hollings and Members of the Subcommittee: I am very pleased to be here today on behalf of the Securities and Exchange Commission (SEC or Commission) to testify on the agency's fiscal 1995 budget request of \$309.6 million. This is my first opportunity to appear before this Subcommittee. In my testimony I hope to explain why we need increased funding and staffing levels to keep pace with the explosive growth in the industries we regulate. But most importantly, I am here to request your continued help in obtaining the funding that the Commission critically needs to protect investors in the nation's ever-changing securities markets.

As a former businessman, I know that adequate funding is essential to nourish an organization's initiative and creativity. I am proud to say that the agency I head has recently shown plenty of both. So, before I address our proposed funding and staffing levels, I would like to take a few moments to highlight some of our recent initiatives. For example: the Commission has recently focused attention on the dangers that investors in mutual funds are facing because of their confusion about the nature of their investments; the Commission has taken the lead in improving the quality of behavior and disclosure in our municipal securities markets, both through sponsoring industry efforts, and through proposed regulatory action; the Commission has adopted and proposed several new standards for accounting and disclosure by international issuers that will make our markets attractive and competitive, while not sacrificing their transparency, fairness and high quality; and the Commission has focused a great deal of attention on combatting abusive sales practices by rogue brokers, through increased examination efforts, approval of better disclosure of disciplinary problems by the self-regulatory agencies, and, most recently, the creation of a consumer affairs advisory committee to make sure the voice of the retail investor is clearly heard.

These issues, and many other law enforcement actions, constitute a very ambitious agenda. For example, the Commission recently instituted proceedings against Prudential Securities Inc. for allegedly defrauding investors who purchased limited partnership interests during the 1980's. As a result of the agency's action, Prudential consented to establish a fund with an initial deposit of \$330 million for the benefit of defrauded investors. If we are to continue our tradition of excellence in the protection of investors and enforcement of the securities laws, we need additional resources. These resource needs are addressed fully in the President's 1995 budget request for the Commission.

The most important feature of the President's 1995 budget request is its reliance on a new fee system for the SEC. As you know, the SEC is a profit-center for the Federal Government. We generate far more revenue for the U.S. Treasury than we receive in funding. Under the budget proposal, the Commission would be self-funded, since fee increases would offset the agency's appropriation for a net funding level of zero. The Commission strongly supports the creation of a self-funding mechanism. However, for this proposal to take effect, Congress must implement a new fee sys-

tem, either in the appropriations bill or through authorizing legislation. Absent a new fee system, the SEC will need to be funded from appropriations. The likelihood of the Commission receiving 100 percent of its funding from appropriations is remote, given the limitations on spending and the efforts to reduce the budget deficit. It is, therefore, critical that either the funding method contained in the President's budget or some other arrangement of offsetting fee collections be approved during this budget process. Congressional oversight of the agency's budget is an essential element of the self-funding mechanism in both the President's budget and in the pending authorization. The Commission will continue to be subject to existing authorization and appropriation controls ranging from inclusion in the President's budget to reprogramming requirements.

#### NEED FOR ADDITIONAL RESOURCES

The 1995 budget request of \$309.6 million consists of an appropriation of \$306 million and \$3.6 million in prior year unobligated funds. The \$306 million appropriation request is an increase of nearly \$37 million over the current funding level, and the staffing level is an increase of 271 full-time equivalents (FTE) over the SEC's current level.<sup>1</sup> I believe strongly that the resources requested in the budget are absolutely critical for the agency. Without the increases, the agency cannot meet its mandate of protecting investors and enforcing the nation's securities laws.

I would like to highlight some of the phenomenal growth in the securities industry since the early 1980's. For example, between 1981 and 1993: the value of public offerings, excluding private placements, has increased 1,780 percent from \$56 billion to \$1.053 trillion; the number of investment advisers has grown 292 percent from 5,100 to 20,000 and assets under management have grown 2,033 percent from \$450 billion to \$9.6 trillion; and the number of investment company portfolios has grown 393 percent from 4,300 to 21,200 and investment company assets have increased 662 percent from \$315 billion to \$2.4 trillion, while the value of savings and loan deposits has decreased 28 percent from \$1.14 trillion to \$822 billion. These are just a few examples of the tremendous growth that has occurred in the marketplace. In comparison, since 1980 the SEC's staffing has increased only 31 percent from 2,041 FTE to 2,673 FTE. While the increase has been very helpful, when viewed from the perspective of overall market growth and the need for greater investor protection, it is modest.

The President's 1995 budget request increases the SEC's staffing by 271 FTE to a total of 2,944 FTE, of which 180 FTE are targeted for the inspection and regulation of investment companies and investment advisers.<sup>2</sup> No other single program at the SEC is in as dire need of resources as is the investment management regulation program. On average, since January 1993, roughly \$23 billion of new money has flowed into mutual funds each month. Unfortunately, as investors are entrusting more and more of their savings—often earmarked for their retirement or their children's education—to mutual funds, the SEC's resources to regulate and inspect those funds have lagged far behind.

It is particularly urgent that the SEC maintain an adequate inspection capability in the face of the enormous growth in the size and complexity of the investment management industry. The strain on our inspection staff has not come about simply because of the increase in the number of investment company portfolios and investment advisers; it is also the result of the many new types of funds, the complex financial instruments in which they now invest, the changing organizational and distribution structures of funds and the geographical dispersion of fund service providers, including the entry of foreign investment managers.

Comprehensive inspections are resource intensive and require more time to complete. Yet, because of the shortfall in staffing, our inspections of investment companies and investment advisers have become by necessity more limited in scope rather than more comprehensive. The SEC cannot continue to inspect investment advisers only once every 27 years, as is the case at present. Nor should we limit inspections of medium and small mutual funds and other investment companies to once every six years, as is now the case. We must have sufficient resources to do the job. In

<sup>1</sup>The SEC was appropriated \$260,317,000 and 2,635 full-time equivalents for fiscal 1994. In December 1993, a reprogramming of \$8,833,000 from prior year unobligated balances and 38 investment company examiners was approved. Therefore, the current funding level for 1994 is \$269,150,000, and the staffing level is 2,673 full-time equivalents.

A portion of the 1995 funding and staffing is contingent upon the enactment of pending investment adviser legislation. If this legislation is not enacted, the SEC's actual 1995 funding level will be reduced by \$8.6 million and 100 FTE.

<sup>2</sup>As mentioned previously, 100 of the 180 FTE increase is contingent on the enactment of pending investment adviser legislation.

large measure, the protection of investors depends on the SEC's ability to monitor fund activities and to respond to developments in the investment company and adviser industries.

The remainder of the staffing increases proposed for 1995 include: 30 FTE for law enforcement; 25 FTE for securities markets oversight; 18 FTE for corporate disclosure; and 18 FTE for the public utility activity, legal services, economic analysis, and program direction. These increases are important to the agency so that it can maintain its active presence in enforcing the federal securities laws, overseeing the marketplace, and providing adequate disclosure to the investing public.

In the enforcement program, the Commission must remain vigilant in its pursuit and prosecution of securities law violations. For example, the recent upsurge in merger and acquisition activity presents greater temptations and opportunities for fraud through insider trading. We also anticipate focusing increased investigative resources on the municipal securities markets, as well as on the rapidly growing investment adviser and investment company industries. Enforcement investigations are extremely complex and frequently involve an international component. In addition, as the agency continues to insist on strong sanctions, the litigation resulting from the agency's enforcement cases has become more time-consuming. Therefore, the agency needs more resources to maintain its outstanding record of effective law enforcement.

In the market regulation program, the Commission is enhancing its market oversight by conducting more examinations of broker-dealers, transfer agents, and self-regulatory organizations, and will focus on the increasing regulatory problems of the markets for government, municipal, and other debt securities. Also, broker-dealer sales practices and possible regulatory responses, and the training and qualifications of broker-dealers, will receive greater attention from the agency. The resources requested will permit the Commission to respond more quickly to market innovations and target areas for increased oversight.

In the corporate disclosure program, the Commission anticipates reviewing one-third of the reporting issuers required to submit filings to the agency, and enhancing its review of small business filings in order to facilitate capital formation. In addition, the Commission will consider important rulemaking initiatives such as cross-border trading activities, multinational offerings, and international disclosure and accounting standards. The ability to keep pace with the volume of filings and to develop comprehensive rule proposals requires additional resources.

The remaining activities and programs—public utility activity, legal services, economic analysis, and program direction—require modest, but important, staffing increases. In the public utility activity of the investment management regulation program, the Commission will continue to oversee the activities of public utility holding companies and will focus on the implementation of the Energy Policy Act of 1992. In the legal services program, the Commission is struggling to keep up with the number of pending appellate matters, which increased by 43 percent during 1993 alone. In the economic analysis program, the staff will focus on several new projects dealing with the adequacy of investor information and will continue to provide essential advice to the Commission on the impact of its policy and regulatory actions on the nation's financial markets. In program direction, the staffing increases are necessary to handle the administrative support associated with the overall growth in staffing and to continue the essential work on modernizing the agency's automation systems.

During my nearly ten-month tenure at the Commission, I have been impressed by the dedication and commitment of the staff. They work long hours on demanding and complex issues with the goal of serving the public to the best of their ability. However, I believe that the agency can benefit from an internal assessment of its operations. Toward that end, I began an operational efficiency review of the agency's operations. Many significant events have occurred from this review, which is ongoing. One of my first actions was to realign the regional office reporting structure and to reduce the number of regional offices from nine to five and to close the Seattle District Office as of July 1994. Other actions that I have taken include: initiating a public awareness campaign with 11 securities regulators to better educate the public on investing in the marketplace; establishing a Consumer Affairs Advisory Committee to provide advice on how to enhance the agency's responsiveness to investors; and realigning and reallocating resources within the agency to utilize them more effectively. I believe that these actions will strengthen the SEC, and I anticipate more changes and improvements will occur over the next several months.

I can assure you that the resources of the Commission are being used wisely and prudently. The budget request for additional resources is fully supportable. These resources are sorely needed by the agency, and without them our ability to accomplish our mission is in doubt.

## FUNDING STRUCTURE

I would like to conclude my statement by asking for your help and support on funding the Commission at its requested level. As I mentioned previously, the President's proposed appropriations language relies on rate increases and new fees. Under this proposal, the SEC is estimated to collect \$813.5 million during fiscal 1995. Of this amount, \$306 million (38 percent) will be used to fund agency operations and the balance—\$507.5 million (62 percent)—will be deposited into the U.S. Treasury as general receipts for funding other government programs. I am aware that several Members of Congress have raised questions or identified potential problems with these fee collections and the funding arrangement for the SEC. Moreover, I have been advised that the "scoring" of the appropriations bill by the Congressional Budget Office is different than anticipated by the Office of Management and Budget, and that this scoring difference may not be favorable to the Appropriations Committee. Another problematic feature of the President's budget request is the nexus between enacting authorizing and appropriations legislation in order for the proposed funding mechanism to work.

I appreciate all the past and current efforts of this Subcommittee to provide sufficient funding for the agency. However, in order for this funding to continue, the SEC must obtain some form of funding based on its annual fee collections. As you know, there have been attempts made in the House to provide the SEC with a permanent self-funding mechanism through its currently pending authorization legislation. However, the Senate has not yet acted on the SEC's authorization bill, and I fear that passing an authorization bill before fiscal 1995 will be very difficult, particularly in a short session of Congress. Without the necessary authorizing legislation, it will once again be up to the appropriations committees to develop a funding solution for the SEC that will avoid major cuts in agency resources. I know that we share a common goal in ensuring the future of the SEC and continuing its steadfast commitment to protecting investors and enforcing the nation's securities laws, and I ask all of us to work together to overcome the obstacles ahead of us. In short, cooperation, common sense, and flexibility must continue to prevail.

I look forward to working with you on the agency's 1995 budget. I believe that the SEC has used its resources effectively and prudently on behalf of the nation's investing public. I am pleased to answer any questions that you may have.

## SEC FEES

Senator HOLLINGS. That is what impresses me, that we force the SEC to operate rather as a welfare agency rather than a business. But the fact is, if I am correct, that the SEC receives this year from fees \$631.6 million, but they cost—the budget of the SEC is \$260 million. So you are generating \$371 million more than the cost of operation right this minute, and the request being made of \$306 million could be covered under the present fee system.

Rather, you ask for an increase in fees that goes up to \$813 million, and that disturbs me from a matter of fairness. But as I understand, you are the loyal soldier in the ranks of the administration supporting their request. Do all these fees hurt the SEC? That is what bothers me. The crowd that is paying its way and more than paying its way is being increased with burdens while the SEC can only review investment advisors once every 27 years because you do not have enough examiners. Is that not correct?

Mr. LEVITT. That is virtually not reviewing them at all if you have to do it at that level.

Senator HOLLINGS. So we are not allowing you to get the examiners, yet you are getting the money to do it and everything else. So you must be indirectly running the drug program or the FBI or somebody else's program.

Mr. LEVITT. It is true.

Senator HOLLINGS. That is wrong and we have got to do something about it. Do you favor these fees here, the increase from one-fiftieth to one-twenty ninth? You see them all listed here in the

President's budget under the SEC. They have got all these funny little fees: fee applicants for filing securities registration, from one-fiftieth to one-twenty ninth of 1 percent; the existing one-time \$150 fee to become a registered SEC investment advisor to an annual fee based on volume, volume of assets under management, transaction fees, and on and on.

Tell me about that?

Mr. LEVITT. Senator, in general I have not shed all my private sector proclivities. I have always found fees to be onerous but necessary. As far as the investment adviser fees are concerned, I think probably that is the most reasonable of the fee increases. If the rest of these fee increases gets us to self-funding, if this is part of the process of getting there, I would walk on hot coals to get there.

Senator HOLLINGS. Well, you are already self-funding right now.

Mr. LEVITT. Yes.

Senator HOLLINGS. Not to get there; you are there.

Mr. LEVITT. But I do not know what we are going to get this year. I have to come to you with hat in hand.

Senator HOLLINGS. I thought you meant to sustain your own costs. Your costs are only \$260 million this year and you generate \$631.6 million.

Mr. LEVITT. Part of this intricate process is that the administration makes a recommendation and this committee has to agree upon it. Well, if I can get everybody to the table to agree, I will support almost anything they want to get us there.

Senator HOLLINGS. Well, you have got a broad, profound knowledge of Government and of industry. In that light it should be noted that this overall Federal budget has got 33 different shenanigan or new user fee proposals. And then when the Government was sued by California and Florida over immigration refugee problems and the costs; the administration comes up here proposing to double the licensing fees over in the Federal Communications Commission, as has been said, trying to make the information superhighway an information toll road rather than a freeway.

Now, we just increased, over our objections last year, licensing fees. It will be \$95 million more again this next year, and we had to do that with a tortuous conferring between the House and the Senate, and we finally did it as part of the budget reconciliation bill.

Having done that, now they come up here and just spuriously out of the clear say: Well, we have got an immigration lawsuit and we want to fund some of this. It is a wonder they did not come to you. They just pick out anybody over there at OMB. They do not have any real comprehensive approach to the problem of Government paying its way.

Right now this year the Federal Government is spending \$338 billion more than we are taking in. These funny figures about deficits. When I measure the deficit, I look at how much we are spending more than we are taking in. The reason we can lower our deficit numbers, we borrow from Social Security \$70 billion and everything else down the list.

Next year we are \$311 billion. That is if we just hold the line and not bring about all of these reforms. And then a couple of years out we are back up to \$350 billion, and obviously some of these re-

forms are going to come into place. We have got health reform in billions, welfare reform in billions, crime reform in billions. Trade reform is \$43 billion in lost receipts for GATT.

Go right on down the list of all the different reforms we have got in place. Foreign policy reform, we just talked about trying to give some more money now to South Africa; I'm for that, but I believe in paying for it. I've proposed a value added tax. I said let us pay for these things.

Mr. LEVITT. The irony is that these fees do not come to the Commission. They go directly to the Treasury.

Senator HOLLINGS. That is what I mean.

Mr. LEVITT. They do not even stop at the Commission.

Senator HOLLINGS. That is right; you do not even get to look at it.

Senator DOMENICI. Well, they see it as it flies through.

Senator HOLLINGS. Well, I am going to do, and under the leadership of Senator Domenici, we are going to do our best, with the full realization that you are doing more than your fair share. We have all headed up United Fund drives and we all talk about fair share and, egads, this is wrong and somehow we have got to come to grips with it.

#### FOREIGN ISSUERS

Insider trading is legal in several countries and yet the New York Stock Exchange is suggesting that foreign issuers be permitted to list on U.S. exchanges on the basis of home country disclosures. What about that?

Mr. LEVITT. Well, that was a major issue with the New York Stock Exchange over the past several years. I have examined that issue and looked at it. I will give you an example.

In Germany, where they use hidden reserves in their accounting statements, which is what they would expect us to do, German companies can manage their earnings and balance them. Daimler-Benz the first German company ever to list on the New York Stock Exchange, used German accounting methods when they came to the United States, using those hidden reserves they would have shown earnings that were almost twice Chrysler's earnings were. Using U.S. accounting standards, or accounting standards used now by other countries of the world, they showed a loss.

How could we explain that to Chrysler? How could we explain it to U.S. investors who would buy it on the same basis as they would buy Ford and Chrysler? So I have taken the position that where foreign company home disclosure impacts U.S. investors and adversely, U.S. companies we are going to hold to our standards.

However, I am trying to move these foreign companies toward international standards, rather than U.S. standards, because there is a natural kind of chauvinism which says, just because it is a U.S. standard, we are not going to follow suit. So I am trying to make it easier for them.

More than that, the Commission has embarked on an aggressive program to personally go out and visit companies. I have seen now close to 100 companies, in Mexico, in Germany, in Switzerland, in China, and have told them that the Commission is not an impediment. I have told these companies that the Commission is going to

help them come to the United States, adapt our standards, tailor their standards in some ways, listen to them, work with them, and provide them with lawyers and accountants, if necessary.

I think this is paying off. Our capital markets represent the most important priority, or one of the most important priorities for us, and we are not going to lose this race. We will do whatever we have to do to be competitive. And I think we are on top of it.

Senator HOLLINGS. That kind of visitation and extension of understanding and thereby association impresses me. And with respect to your dramatic statement about being there with somebody from the Long March and having been educated in Moscow for 5 years, now trying to really go the capitalistic way, that visitation and that kind of approach seems to me to be able to bring more democracy than cutting off most favored nation.

What is your position?

Mr. LEVITT. Sir, I believe that economic bonds can often be stronger than political bonds and often cause those political bonds to do what they might not otherwise do. I believe that passionately. I felt that before I came to the Commission. Going to China and seeing that the British were there the week before I was there and the Japanese will be there next week has increased this belief.

They want to trade. They want those companies to trade in London, they want them to trade in Hong Kong, they want them to trade in Tokyo. I want them to trade in New York, and I do not want to do anything to interfere with that.

Senator HOLLINGS. And your position is by trading in New York I could get more democratic trends going—

Mr. LEVITT. Without question.

Senator HOLLINGS [continuing]. Than cutting off MFN?

Mr. LEVITT. I am sitting there in the Great Hall. Behind me is a picture of Mao out in the square, and they are signing an agreement intended to list these companies on the New York Stock Exchange. That is astonishing.

#### SEATTLE DISTRICT OFFICE

Senator HOLLINGS. Two little in-house questions on Seattle. I know we are going to get a question about the closing. In fact, we got a sense of the Senate amendment. The Seattle office, Seattle, WA, can you tell us about that?

Senator DOMENICI. I sent my question up there.

Senator HOLLINGS. We ought to make a record on it.

Senator DOMENICI. Sure.

Mr. LEVITT. I think one of the beauties of our democratic system is that you pull in some people from the private sector who stay here for a few years and bring ideas and they go back. In my case, when I came to the Commission, I had a business background, and if I came into a business I would see what my resources were and I would try to allocate them in the most logical way possible. I would discuss it with my staff and I would go about my business and do what I had to do.

We do not have offices in Indianapolis, we do not have them in Charleston, we do not have them in Albuquerque, and yet we protect those people as well as we protect the people of Los Angeles and New York. In the area covered by the Los Angeles and San

Francisco offices, for instance, the assets under management in investment company complexes in the past 10 years grew from \$14 billion to \$231 billion. That represents a growth from 4.3 percent of all assets under management in such complexes to 12.1 percent.

In Seattle—and this was one of the numbers that impressed me—assets under management in such complexes during the same period grew from \$3 billion to \$12 billion, or 0.9 percent down to 0.6 percent of such assets. We had something like two or three people walk into that office for all of last year. It did not make sense to have that office. We can cover that district with just as much efficiency from California, from San Francisco and Los Angeles.

I came back from China specifically to meet about 100 people from the community who were ready to string me up. It was like I was back in my base closing days, only I had a different power structure there. So I met with them and I told them: Look, we are going to cover you just as well as we did before, if not better; and I am going to come back to Seattle in 6 months and I will meet with you again and you will tell me whether we are doing the job or whether we are not doing it, and you can hold me personally responsible.

I did not get any applause when I left.

#### POLITICAL CONTRIBUTIONS BY INVESTMENT BROKERS

Senator HOLLINGS. A man who speaks with conviction.

Let me ask one other question. Can you under the law make a contribution to me?

Mr. LEVITT. I believe I can under the law.

Senator HOLLINGS. Then why do you put out rules that investment brokers cannot do it, if you can?

Mr. LEVITT. Investment brokers can make a contribution to you.

Senator HOLLINGS. I thought you had put out a rule. I got something here.

Mr. LEVITT. It has nothing to do with you.

Senator HOLLINGS. You issued a rule prohibiting contributions to any elected official—

Mr. LEVITT. No; I would encourage investors to contribute to you and to Pete. [Laughter.]

Senator DOMENICI. Well, he is not worried about your encouragement; he is worried about your rules and regulations.

Senator HOLLINGS. Rules and regulations, yes.

Mr. LEVITT. Our rules would not prevent investors from encouraging you and Pete.

Senator HOLLINGS. Well, it is really not us. Any elected official. I could have the wrong information, but I have got this letter from A.G. Edwards, an investment broker down in Greenville, SC, just a couple weeks ago: "The SEC has recently issued a ruling prohibiting any contributions to any elected official by any investment broker."

[The information follows:]

LETTER FROM BAIRD MONTGOMERY, A.G. EDWARDS &amp; SONS, INC.

APRIL 18, 1994.

Senator ERNEST HOLLINGS,  
125 Russell Office Bldg., Washington, DC 20515.

DEAR SENATOR HOLLINGS: The Securities and Exchange Commission has recently issued a ruling prohibiting any contributions to any elected official by any investment broker. I feel this edict by a non-elected group of officials infringes upon my constitutional right to financially support the candidate of my choice and threatens the free elective process.

Help will need to come from the legislative side to overturn this unfair rule. Any assistance you can provide will certainly be appreciated.

Sincerely,

BAIRD MONTGOMERY.

Senator HOLLINGS. By the way, they are Republicans. So I am trying to help out the Republicans cause. [Laughter.]

We have not been able to get any of their money.

What about that?

Mr. LEVITT. When I came to the Commission, I came with a history of knowing about the securities business and knowing something about fundraising. I saw an increasing number of abuses in the municipal securities area relating to the allocation of municipal underwriting business based upon contributions to political campaigns. I talked to a number of friends, including Ben Edwards at A.G. Edwards, and they said this is getting out of hand; young people coming into this industry believe the only way to get business is by buying it and paying for it.

Ben and 16 other firms agreed that they would voluntarily ban the giving of gifts by people in the firms who would benefit. The MSRB, which is the official rulemaking body, made recommendations in this area, which the SEC recently approved.

By no means does this ban political contributions to all public officials. It does nothing of the sort. It only affects contributing to those officials who are in a position to give municipal underwriting business.

I am also motivated by circumstances that you read about in the newspapers, such as the investigations developing in New York, New Jersey, California, Louisiana, and Arkansas. I think that the proposal is a reasonable one and one that I support.

Senator HOLLINGS. I do not know if that gets into our election laws or not, but let me yield to the distinguished Senator from New Mexico, Senator Domenici.

#### SEC FEES AND AGENCY OVERSIGHT

Senator DOMENICI. Thank you, Mr. Chairman.

Mr. Chairman, let me just make a point. This whole issue of fees is really very muddled because, while they are collecting more fees than their budget, rarely have those fees been allocated to them, but rather to the Treasury of the United States.

Senator HOLLINGS. Right.

Senator DOMENICI. Now, interestingly enough, while the President's budget is advocating more fees and an increase in your budget, he is advocating that those fees go to the Treasury, not to you.

Now, from our appropriations standpoint that is the worst of all worlds. We are being asked to put in more money out of the appro-

priated amount and, while we are going through raising the fees, we do not get any credit for it. So we are going to be a couple of hundred million dollars more short by giving them an increase. So I think it is going to be tough myself.

Now, second, let me raise this point with you. You kind of mentioned in passing that if you could get the fees allocated to the Commission that you would easily be self-sufficient. And of course, the Chairman knows that if we allocated all of them we are putting in now we would already be self-sufficient, would not need any more.

But you said that would mean that you would not have to come up here for your budget every year. Now, I think—and you would not, because it would be automatic. We could call you up here and talk to you about whether you are doing your job or not.

Mr. LEVITT. No; you would still have to approve it. We would have to come to you and you would have to approve our recommendations.

Senator HOLLINGS. Oh, yes.

Senator DOMENICI. Well, you would have to make sure. You would have to make sure that everybody on that Banking Committee knows that aspect of it. And frankly I think also, I think you would do well if you talked about just how large an increase. You might be limited to certain increases over the next 5 or 6 years, so that we would feel more comfortable that you just would not put on even more onerous fees to dramatically increase the size of your staff.

Mr. LEVITT. Self-funding does not really mean self-reliance. It still subjects the Commission to the discipline of the Congress in terms of both authorization and appropriations.

Senator DOMENICI. I think it is fair to say we are not going to pass this whole process of setting up the fund, of making all of the receipts go to the Commission so they can pay their bills. We have got to get that authorized, do we not?

Senator HOLLINGS. Right, we would have to get that authorized. We would not try to change that.

We have had a good working relationship and I am pleased at your coming on board now and heading up this effort, because we have got a lot of confidence in you. We do not have to worry about the SEC. You are not worried about it, I am not worried about it.

Senator DOMENICI. No, no.

Senator HOLLINGS. We have to find out, like Seattle, why you are closing the office, a few little housekeeping things.

#### SAFE HARBOR PREDICTIVE STATEMENTS

Senator DOMENICI. In fact, I do want to—I want to say to the Chairman of the SEC, whom I happen to know, that I think you are doing a great job, and I want to commend you and your staff. We do not always agree with your staff on some of the reforms we are seeking, at least over in the Banking Committee.

But I want to ask you about one and then I will submit a series of questions. Chairman Levitt, you have, the SEC has, a safe harbor for predictive statements. Can I talk a little bit about that?

Mr. LEVITT. Sure.

Senator DOMENICI. As you know, Senator Dodd and I have become upset with the number of lawsuits that are being filed against companies, many of them new companies or companies that have gone public, that have high tech in their background and part of their product and, therefore, they are volatile. We have become very concerned that they get sued just because the stock prices change.

One of the reasons for the safe harbor predictive statements is so that companies like that can file their predictive statements. And the words "safe harbor" were intended to give them some immunity from lawsuits if the predictive statements did not turn out.

It is not working that way. Your safe harbor currently in effect does not preclude this 100 or so lawyers in America, or law firms—that is about what it is, 100—out of the entire bar that litigate against companies on behalf of an alleged class of stockholders. And I am wondering why you cannot move, even before we get the Dodd-Domenici bill passed, to make safe harbor more of a safe harbor?

Mr. LEVITT. I think you are right. I think there are so many elements in the Dodd-Domenici bill that resonate with me. Clearly, abuses have developed in this area. I have spoken about them. I am concerned about them. I have experienced them.

I do not understand enough about the intricacy of the legislative process to be able to say, if you did it this way this could happen or that could happen. But with respect to the safe harbor, we have begun a dialog with the high tech companies and at your instigation I will turn up the heat on that initiative and see if we can move it along irrespective of what happens with Dodd-Domenici.

Senator DOMENICI. Sure. We have a section in our bill—your counsel knows about it—that addresses the issue. But we do not have to have the legislation, that piece, if, in fact, you have created more of a safe harbor than you currently have and we look at it and everybody says it is about the best you can do.

Mr. LEVITT. I promise to make that a priority, examining that, and I will stay in touch with you about it. I think there are a number of things the Commission can do in this general area that you are touching upon with in your bill, and hopefully we can work in that direction.

Senator DOMENICI. Chairman Hollings, I know you are not involved in this aspect, but let me just share something with you. I think I know your feelings, having been here with you for so long. You know the legal profession and our propensity to rely almost exclusively on the courts sometimes and jury verdicts to establish conduct sometimes gets out of hand.

What is happening in many of these class action lawsuits in the Federal court, we have plaintiffs who are filing a suit a day after the stock prices come down on some company because there was an expectation that they would continue at a high level and they sue just on that. And everybody is deposed, and 1½ years later it settles for \$10 million or \$15 million.

That is happening over and over across this land.

Senator HOLLINGS. The question is is it on the increase? Now, we know the stock offerings—

Senator DOMENICI. No; when it comes down, they decrease.

Senator HOLLINGS [continuing]. All increase, but have class actions increased? It has been constant. I do not know the problem.

Senator DOMENICI. Oh, yes, we have all of that information. We have worked at it.

Senator HOLLINGS. But you know, the distinguished Mr. Levitt said that rogue brokers are preying on the public coming back. Under that bill, maybe they would never leave.

Senator DOMENICI. Oh, no, no, no, no. [Laughter.]

Senator HOLLINGS. Some new kind of scam, and we are just trying to tread water and all of a sudden, wait a minute, let us by God let them do what they want to, we will give them the safe harbor.

Senator DOMENICI. Oh, no.

Senator HOLLINGS. I do not know.

Senator DOMENICI. Wait until we get that before you and you will see. Safe harbor already exists. It is just that it does not work as they intended it to work.

Senator HOLLINGS. All right.

Senator DOMENICI. That is safe harbor which is an administrative process.

Senator HOLLINGS. I will have to look at that bill. I have not. I am not familiar with it.

Senator DOMENICI. We are going to share that bill with you, because you are going to be a sponsor for it.

Senator HOLLINGS. I do not know. When you say my good friend Chris Dodd from the insurance mecca of Connecticut has got a bill in, I have to read it. I learned long ago we had a slogan: Capital Lathe will surely pay if the small print on the back don't take it away. [Laughter.]

Senator DOMENICI. I have heard that.

Senator HOLLINGS. That is why when you tell me those kind of bills are coming—I guess you have got the British rule maybe?

Senator DOMENICI. No, no.

Senator HOLLINGS. There is no British rule in there?

Senator DOMENICI. We compromised.

Senator HOLLINGS. You have got to be rich. Someone said one time that you have got to have at least \$10,000; if you are a wealthy stockholder you can bring a suit, but if you are a poor one you cannot.

Senator DOMENICI. Oh, you have been lobbied. You have been lobbied. I did not know you had already been lobbied.

Senator HOLLINGS. I do not know.

Senator DOMENICI. Those plaintiffs' lawyers already got to you. Do you think \$10,000 is too much to own in a stock to file a lawsuit? That is the issue.

Senator HOLLINGS. Well, these class actions got Keating and Drexel, Milken, and all the rest of them.

Senator DOMENICI. It will still get them.

Senator HOLLINGS. Good enough, we will look at it.

## INVESTMENT ADVISER EXAMINERS

Senator DOMENICI. Let me ask you one last question. In terms of what you are requesting, I think, 271 additional staff years; is that right?

Mr. LEVITT. Yes.

Senator DOMENICI. You assume that 100 of those staff years will be added as a result of the passage of this year's legislation amending the Investment Act?

Mr. LEVITT. Yes, sir; that is in committee now, apparently, in conference now.

Senator DOMENICI. Those amendments would authorize the hiring of 200 additional personnel, as my staff tells me, to inspect investment advisors.

Mr. LEVITT. Yes.

Senator DOMENICI. Which has something to do with what you were alluding to in your opening remarks.

Mr. LEVITT. Advisers as distinct from investment companies, which are mutual funds.

Senator DOMENICI. Right.

Mr. LEVITT. There has been an explosive growth of advisers.

Senator DOMENICI. And you want to do a little more of trying to see that that is not fraudulent.

Mr. LEVITT. Yes; because we are able to get in there and inspect them once in many years, and that is really inadequate.

Senator DOMENICI. So does the request for the 100 additional staff-years depend upon enactment of these amendments?

Mr. LEVITT. Yes; it does.

Senator DOMENICI. And we will have to find out where that is or condition it upon the enactment of that if we have any funds in for that, I assume. Does that request for personnel depend upon the enactment of additional fees as proposed in those amendments?

Mr. LEVITT. I believe so, yes.

Senator DOMENICI. OK. So you are going to try to raise the money through fees in that one for this new group?

Mr. LEVITT. Yes; and those fees are quite modest.

## ADDITIONAL COMMITTEE QUESTIONS

Senator DOMENICI. I have three or four questions in writing that I will submit and he can answer them.

Senator HOLLINGS. And we have from some of the other committee members, too.

Mr. LEVITT. I wonder if I could, at the risk of harassing the two of you, if I could urge you to relay the importance of having the Banking Committee taking up our authorization as soon as possible so that the appropriations process can get underway more effectively.

Senator DOMENICI. Well, Mr. Chairman, you know that Senator Riegle and Senator D'Amato are the Chair and the ranking member of that committee. I am not the one holding it up. I would be glad to indicate that I—

Mr. LEVITT. That would be wonderful.

Senator DOMENICI. I will do that.

Senator HOLLINGS. You have got the power to move it, go on.

Senator DOMENICI. Senator Gramm was here, but he is opposed to it.

Senator HOLLINGS. Oh, he is?

Senator DOMENICI. Yes; the self-funding part of it.

You have talked with him, have you not?

Mr. LEVITT. I have.

Senator DOMENICI. You have not made measurable headway?

Mr. LEVITT. No; I have not. [Laughter.]

Senator HOLLINGS. Well, we really appreciate you and your colleagues' appearance here today.

[The following questions were not asked at the hearing, but were submitted to the Commission for response subsequent to the hearing:]

#### QUESTIONS SUBMITTED BY SENATOR ERNEST F. HOLLINGS

##### INVESTMENT ADVISERS

*Question.* Chairman Levitt, we've been trying to help you hire more examiners to review investment advisers. My staff tells me that at current rates, the SEC is only able to review investment advisers once every twenty-seven years.

What is the status of your efforts to hire more examiners? What is the status of authorization legislation? How many examiners do you need?

*Answer.* Both Houses of Congress have approved legislation that would amend the Investment Advisers Act of 1940 to require registered investment advisers to pay annual fees, the proceeds of which would fund an enhanced investment adviser inspection program. On May 4, 1993, the House of Representatives passed H.R. 578, the Investment Adviser Regulatory Enhancement and Disclosure Act of 1993; and on November 20, 1993, the Senate passed S. 423, the Investment Adviser Oversight Act of 1993. The House bill contains a number of provisions not in the Senate bill. Staff members of the House and Senate committees have held meetings among themselves and with members of the SEC staff to discuss reconciling the two pending bills; however, no agreements with respect to the substantive differences in the two bills have yet been reached. SEC staff members are providing ongoing technical advice to both House and Senate committees.

On January 24, 1994, I wrote a letter to members of the relevant committees in which I emphasized the importance of enhancing the SEC's investment adviser inspection program and expressed my hope that the House and the Senate bills would be reconciled "as soon as possible." In order to facilitate reconciliation of the bills, I indicated that the Commission would use its current statutory authority to address four matters in the House bill by developing rules dealing with custody practices, suitability of investment advice, improved client brochures, and periodic reporting of expenses. The Commission proposed rules addressing the first two of these matters (custody practices and suitability) on March 16, 1994.

There are currently 20,700 investment advisers registered with the Commission. These advisers range in size from a one-person, part-time business with no assets under management to companies that employ thousands of persons with hundreds of billions of dollars under management. The nature of investment advisers' businesses varies substantially with some presenting higher risk profiles to clients than others. The frequency of inspections of these different advisers depends on the nature and size of their business. The largest and riskiest advisers should be inspected frequently. Considering all of these factors, the Commission staff estimates that approximately 210 examiners are needed to oversee adequately the current population of advisers. However, the SEC currently has approximately 50 examiners.

With respect to your question on the status of the Commission's authorization legislation, an authorization bill containing a form of self-funding (H.R. 2239) was passed by the House in July 1993. However, because this bill raises several budgetary points of order in the Senate, no authorization bill has yet been introduced in the Senate. The SEC staff has prepared a draft of an authorization bill that would remedy the Senate budgetary points of order and it has been provided to the staff of the Senate Committee on Banking, Housing and Urban Affairs. This version, like H.R. 2239, would incorporate into the SEC's self-funding scheme the proposed investment advisers fee currently pending in H.R. 578 and S. 423, if enacted by Congress.

## CARRYOVER/SURPLUS COLLECTIONS IN 1994

*Question.* The fiscal year 1994 Commerce, Justice and State appropriations bill raised section 6(b) stock registration fees from the current rate of 1/50 of one percent to 1/29 of one percent. When the bill was enacted last autumn, the SEC told us that they thought that this change would yield \$171.6 million. We now understand that collections will actually be higher.

What is the Commission's current estimate for section 6(b) collections this year?

*Answer.* In November 1993, the Commission's Office of Economic Analysis prepared new fiscal 1994 through 1998 forecasts of registration fees under section 6(b) of the Securities Act of 1933. Based on this new estimate, section 6(b) filing fees in fiscal 1994 are now expected to raise \$306 million in Treasury receipts and \$222 million in offsetting collections to the Commission's appropriations. The actual amount of section 6(b) fees collected may vary from this estimate based on changes in market and economic conditions, such as rising interest rates.

## NEW RISKY FINANCIAL INSTRUMENTS/SEC OVERSIGHT

*Question.* Chairman Levitt, banks are becoming increasingly involved in the business of managing and selling the shares of mutual funds.

What action is the Commission taking in response to concerns that investors are not receiving adequate disclosure of the risks involved in mutual funds? These bank-sold funds are not federally insured are they?

*Answer.* It is very important for investors to be aware that bank-sold mutual funds are not covered by federal deposit insurance. The Commission and its staff, and the National Association of Securities Dealers (NASD), have taken a number of actions to deal with the possibility of investor confusion regarding bank-advised and bank-sold mutual funds.

Since last year, the Commission's staff has required any mutual fund that has a name that is the same as, or similar to, the name of a bank that advises the fund or sells the fund's shares to disclose prominently on the cover page of the fund's prospectus that shares in the fund are not federally insured. Any other mutual fund sold by or through a bank also must provide this prominent prospectus disclosure. In addition, every money market fund must disclose, on the cover page of its prospectus and in its advertising, both that its shares are not insured or guaranteed by the U.S. government and that there is no assurance that the fund will be able to maintain a stable net asset value of \$1.

In November 1993, the Commission sponsored a survey of 1,000 households that showed the existence of considerable confusion among investors regarding the uninsured status of bank sold funds. For example, 28 percent of all survey respondents believed that mutual funds sold through banks "are federally insured like savings accounts and CD's", and 66 percent of bank fund holders believed that money market mutual funds sold through banks are federally insured. Working with the Office of the Comptroller of the Currency, the Commission then sponsored focus group research to further our understanding of this problem. The focus groups generally confirmed that some mutual fund investors are confused about the non-guaranteed nature of bank mutual funds and have difficulty in distinguishing a bank money market mutual fund, which is a non-guaranteed investment, from a bank money market deposit account, which is an insured bank account. We are planning further consumer research.

Since the survey, the Commission staff has been working with the staff of the NASD to further develop the NASD's program of advertising review and compliance, and to better focus NASD efforts on advertisements and sales literature relating to broker-dealer sales activities on financial institution premises. The Commission and the NASD also have stepped up their efforts to review sales practices associated with brokerage services conducted from the premises of banks and other financial institutions. The Commission has instituted a special broker-dealer examination program to generally review sales practices on bank premises, focusing especially on customer complaints relating to mutual fund activities. The NASD, too, is examining retail sales practices associated with mutual fund sales. In this regard, the NASD is focusing on first-time investors, including individuals who historically have held their savings in certificates of deposit and other bank savings instruments, and mutual fund sales conducted by broker-dealers on the premises of banks and other financial institutions. The Commission also has begun inspecting mutual funds' distribution arrangements with banks, and, to the extent possible, sales practices associated with bank-advised funds, as part of its routine fund examinations.

The antifraud provisions of the Securities Exchange Act of 1934 and the NASD's customer suitability rules require that broker-dealers and their sales persons make investment recommendations that are suitable for the individual investor in light

of the investor's financial needs, investment objectives, and circumstances. The NASD recently has undertaken initiatives to enhance awareness of these obligations by its broker-dealer members, including the recent issuance of two Notices to Members reminding member firms of their obligations under the NASD Rules of Fair Practice to disclose to customers the varying risks of investing the proceeds of certificates of deposit in mutual fund shares.

The Commission recently contacted the federal banking regulators to recommend that Commission and banking regulatory staffs meet to develop a common approach to address the issue of broker-dealers and depository institutions paying referral fees to unqualified financial institution personnel. The Commission is concerned that the payment of referral fees may exacerbate the problem of customer confusion by creating an inappropriate incentive for unqualified financial institution employees to offer unauthorized investment advice to their customers.

Finally, the Commission staff has prepared and begun distributing a pamphlet to provide investors generally with basic information about investing and dealing with brokerage firms. The Commission also has established a Consumer Affairs Advisory Committee, with the mandate of finding solutions to the problems that investors encounter in dealing with investments and investment professionals.

**Question.** Are the SEC and the Financial Accounting Standards Board (FASB) considering any projects regarding "derivative" products and activities?

**Answer.** Yes. Both the Commission and FASB are actively considering or working on projects regarding derivative products and activities. The Commission staff is currently considering whether rulemaking or interpretive guidance is needed in this area. Generally accepted accounting principles and the Commission's Regulation S-K include requirements that elicit some disclosure of derivatives activities. The staff of the Division of Corporation Finance monitors disclosures of derivatives activities in connection with its reviews of filings, and, through the comment process, has obtained expanded disclosures in filings where such disclosures were necessary to an understanding of the type, extent and potential effects of such activities.

FASB, as part of its existing project on financial instruments, recently added a "fast-track" project to its agenda to require expanded disclosures of activities involving derivative products. FASB expects to issue an exposure draft of a proposed standard within the first quarter of 1994 and expects action on a final rule by the end of the year. Additionally, FASB is continuing work on other aspects of its financial instruments project including issues related to hedging activities.

#### CLOSING THE SEATTLE OFFICE

**Question.** Earlier this year the Commission began closing its Seattle, Washington District Office.

I wouldn't be surprised if the Washington delegation tries to interfere with your management action when we get this bill to the floor this summer.

Could you provide the rationale for this closure? Wasn't the Seattle office created to regulate a security market that no longer exists?

**Answer.** On January 13, 1994, the SEC announced that it would close its district office in Seattle. The closure will be effective on July 23, 1994. This decision to modify the structure of the Commission's Pacific Region is part of the Commission's continuing efforts to maximize the efficient and effective utilization of its resources and to streamline its operations. As a consequence of merging the staff of the Seattle Office into the San Francisco and Los Angeles Offices, the Commission will be able to shift much needed resources to offices with substantially larger securities industry constituencies and greater program responsibilities. The Commission also will be able to realize certain economies of operation.

In reaching this decision, the Commission gave careful consideration to the relevant demographics of the respective offices which make up our Pacific Region, including the number, size and type of regulated entities in these areas. More specifically, the Seattle District Office has jurisdiction over only 3 percent of all regulated entities registered with the Commission (e.g., broker-dealers doing a public business, transfer agents, investment company complexes and investment advisers). By contrast, the San Francisco and Los Angeles Offices are responsible for approximately 17 percent of all such registrants.

As one measure of the relative growth in these areas, it should be noted that during the past ten years, the amount of money under management in investment company complexes in the area serviced by the Los Angeles and San Francisco Offices has grown from \$14 billion to \$231 billion. This represents a growth from 4.3 percent to 12.1 percent of all money under management in these complexes nationwide. However, in the Seattle District, money under management in such investment company complexes grew from \$3 billion to \$12 billion during this same period, rep-

resenting a decline from .9 percent to .6 percent of all assets under management in registered investment company complexes.

Based on the demographics and on the respective workloads of the offices involved, the Commission is confident that the activities of the Seattle Office will be fully and effectively carried out by the two other offices in the Pacific Region without any loss to investor protection or decline in service to the public.

On May 2, 1994, senior Commission officials and I met with industry representatives in Seattle at the request of Senator Murray. The purpose of this meeting was to listen to their concerns and to discuss the Commission's continuing commitment to service those constituencies following the reorganization of the Commission's Pacific Region. I emphasized the SEC's commitment to provide coverage to the region through the Los Angeles and San Francisco Offices. To further emphasize the agency's commitment in this regard, I offered to revisit that area within six months following the closing of the Seattle District Office to assess the success of the Commission's efforts to maintain an active presence in the Northwest.

With respect to the question about creating the Seattle office to regulate a securities exchange, the Commission's office in Seattle, Washington was established shortly after the Securities and Exchange Act of 1934 was enacted. The Spokane Stock Exchange (SSE) was one of the oldest registered exchanges in the United States. It was first organized in January 1897, as the Standard Stock Exchange of Spokane. In 1946 it changed its name to the Spokane Stock Exchange but ceased trading operations as of the close of business on May 24, 1991. The SEC acknowledged the withdrawal of the SSE's registration as a national securities exchange on May 30, 1991.

#### SEC BUDGET

*Question.* Chairman Levitt, Leon Panetta has filled the President's budget with fees—I think there are more than 38 separate new fee proposals.

Now in the case of the SEC—you've been collecting fees for sometime and have more than paid for yourself for years. But because of the bureaucratic "mumbo jumbo" of the budget act, only increased section 6(b) registration fees can be used to help staff and operate the Commission.

Could you describe the fee proposal in the President's budget? It proposes to charge new types of fees like transaction fees doesn't it? Wouldn't changing the current section 6(b) rate from 1/29 of one percent to 1/27 of one percent—essentially fund the Commission's budget request?

*Answer.* The Commission presently collects four different types of fees under the federal securities laws. These fees are: (1) registration of securities under the Securities Act of 1933; (2) securities transactions on exchange traded securities under the Securities Exchange Act of 1934; (3) tender offer and merger proxy filings under the Securities Exchange Act of 1934; and (4) other filings and reports under the Independent Offices Appropriations Act.

Currently, the Commission is funded through a combination of appropriated funding and offsetting fee collections from the registration of securities under section 6(b) of the Securities Act of 1933. By statute the section 6(b) fee rate is 1/50th of 1 percent of the aggregate value of the securities being registered. This fee rate has been changed annually through the appropriations bill to 1/40th in fiscal 1990 and 1991, 1/32nd in fiscal 1992 and 1993, and 1/29th in fiscal 1994. The amount up to 1/50th goes directly to the U.S. Treasury. The difference between 1/50th and the higher fee rate of 1/29th is the "offset" that is used to fund the Commission. For example, in fiscal 1993, the Commission received \$127 million in appropriated funds, \$96 million in offsetting fee collections, and \$30 million from prior year unobligated balances, for total funding of \$253 million. However, the Commission collected a total of \$517 million in fees, including all of the other fees collected by the agency which go straight to the U.S. Treasury.

The revised fee system proposal included in the President's fiscal 1995 budget contains several changes to the funding structure for the Commission. First, it increases the statutory rates for all of the fees required under the federal securities laws—registering securities, securities transactions, and tender offer and merger proxy filings, and earmarks the increased rates for Commission use. As a practical matter, this spreads the cost of the Commission's appropriation more fully across groups regulated by the Commission, rather than focusing only on section 6(b) fees. Second, the proposal would extend the fees for securities transactions to the over-the-counter market, which is currently exempt from paying this fee. This fee expansion was recommended by the Commission's Market 2000 study, and it does not appear to be controversial in the industry. Finally, the proposal establishes a new fee to be paid by investment advisers, if legislation is enacted amending the Investment

Advisers Act of 1940. This legislation has been approved by both Houses of Congress and is currently being reconciled through a staff conference.

Under the President's proposal, the Commission would be guaranteed a full appropriation. However, the increased and new fees collected by the Commission would be deposited into a special fund at the U.S. Treasury and would reduce the appropriations amount so that the net effect is a "zero" appropriation for the Commission. The remaining existing fees would continue to be deposited into the General Fund of the U.S. Treasury.

This new fee system proposed by the President is estimated to collect \$813.5 million in total revenue of which \$306 million would be used to fund the Commission and the balance, \$507.5 million, would be deposited into the General Fund of the U.S. Treasury for funding other government programs. The following table compares fee collections and the allocation of those fees.

(In millions of dollars (rounded to the nearest million))

	Total fee collections	Total SEC funding	SEC funding from appropriations
Fiscal year:			
1993 .....	517	253	127
1994e .....	632	269	58
1995e .....	814	306	( <sup>1</sup> )

<sup>1</sup> In fiscal 1995, the Commission would receive \$306 million in appropriated funding, but as fees are collected and deposited into the U.S. Treasury, the appropriated funding would be reduced to zero.

Based on current estimates, changing the fee rate under section 6(b) of the Securities Act to 1/27th of one percent, would not fully fund the Commission's fiscal 1995 budget request. The section 6(b) filing rate needed to fund the Commission's \$306 million request (net of \$8.6 million for 100 investment adviser FTE which will be funded from new fees if legislation is enacted) is 1/26th of one percent.

#### QUESTIONS SUBMITTED BY SENATOR DALE BUMPERS

##### PUBLIC UTILITY HOLDING COMPANY ACT (PUHCA)

*Question.* As you are probably aware, I have been a vocal critic of the SEC with regard to the Commission's actions in carrying out its responsibilities under the Public Utility Holding Company Act (PUHCA). While the Commission has done a good job of protecting investors, the SEC has done a relatively poor job in ensuring that consumers are adequately protected from various transactions engaged in by utility holding companies and their subsidiaries. When the President was the Governor of Arkansas he appeared before the Senate Energy Committee to testify on several Holding Company Act issues and complained about the SEC's negative attitude towards consumer protection. Last year I introduced legislation which would transfer regulatory authority over PUHCA from the SEC to the Federal Energy Regulatory Commission (FERC) and require FERC to consolidate various proceedings which involve issues arising under both PUHCA and the Federal Power Act.

What is your position on this legislation?

*Answer.* The Commission has been asked to testify on PUHCA-related matters, including proposed legislative changes arising out of the Ohio Power case on May 26, 1994, and is in the process of formulating its position on these matters. I would be pleased to provide you with a copy of the Commission's testimony as soon as it is available.

It appears that the legislation may be stalled due to competing jurisdictional issues. I understand, however, that the concerns which underlie the legislation could be resolved administratively, and I have directed the Commission staff to take appropriate action to address the Ohio Power problem.

*Question.* Since 1981, how many adjudicatory hearings has the Commission conducted pursuant to Section 19 of PUHCA? Please list all such hearings and the dates on which they occurred.

*Answer.* Since 1981, the Commission has held three hearings under Section 19 of the Public Utility Holding Company Act of 1935 (PUHCA or Holding Company Act). In 1989, a hearing was held before an administrative law judge in CSW Credit, Inc., Admin. Pro. File No. 3-7027. At issue in that case was the factoring of receivables for nonassociate companies by a subsidiary of a registered holding company.

The Commission, on petition for review of the administrative law judge's decision, upheld the staff's position regarding the limits on diversification. CSW Credit, Inc., Holding Co. Act Release No. 25995 (March 2, 1994).

In 1989, a hearing was held in Noverco, Inc., Admin. Pro. File No. 3-7097. The question presented was whether the Holding Company Act permits foreign control of a domestic public-utility company. A decision in this matter has been delayed several times at the parties' request as they attempted to negotiate a settlement or otherwise resolve the issue. The matter is now before the Commission for decision. I would expect an order to be issued in the near future.

Finally, in 1990, a hearing was held before an administrative law judge in ALLTEL Corporation, Admin. Pro. File No. 3-7266. The staff, in that matter, opposed the grant of an exemption to a telecommunications company that had acquired a public-utility company. The issue was subsequently mooted, and the proceeding dismissed, when the applicants sold the utility properties to a nonassociate company.

**Question.** Since 1981, how many requests for adjudicatory hearings have been received in PUHCA cases pending before the SEC? How many of those requests were granted?

**Answer.** Since 1981, the Commission has received approximately 76 requests for hearing in approximately 30 matters. A number of the requests were withdrawn after the applicant modified its proposal to meet the intervenor's objections. None of the remaining requests was granted.

The standard for granting a hearing is whether a request raises a material issue of fact or law. In some instances, a request was denied because it did not raise an issue within the ambit of the Holding Company Act. In others, the request was denied because it represented an effort to relitigate issues that had already been addressed and resolved in another forum.

The Commission staff works to resolve contested matters informally through voluntary measures. Agency resources do not permit a practice comparable to that of the FERC, which routinely sets matters for hearing. The Commission's Office of Public Utility Regulation (Office) receives approximately 200 filings each year. As the pace of change in the utility industry continues to accelerate, the Office increasingly receives novel and complex applications. For example, a single matter—the recent acquisition of Gulf States Utilities by Entergy Corporation—consumed approximately 11 percent of staff resources over a 15-month period.

**Question.** During a hearing last year before the Senate Energy and Natural Resources Commission, representatives for both the Arkansas Public Service Commission and the City Council of New Orleans testified that, with regard to two applications filed by the Entergy Corporation with the SEC for permission to engage in a utility project in Argentina and to acquire a conservation company, SEC staff told the representatives that they "better work out a deal with Entergy" because the SEC would deny their requests for a hearing on these matters. Does the SEC deny that this statement was made?

**Answer.** The Commission staff always urges regulated holding companies to address the concerns of their state and local regulators. To the extent the staff encouraged a settlement in these particular matters, this was its intention. The staff also encouraged Entergy to reach an accommodation with its regulators in the recent Gulf States matter.

**Question.** In the Ohio Power case, the U.S. Court of Appeals for the D.C. Circuit essentially ruled that FERC was powerless to examine the reasonableness of costs associated with a coal transaction between two affiliates of a registered electric utility holding company where those costs were charged pursuant to a contract approved by the SEC under PUHCA. Does the SEC believe that the Ohio Power case was decided correctly? Prior to the Court's decision, did the SEC believe that FERC had adequate authority to review the reasonableness of costs related to interaffiliate transactions?

**Answer.** It is difficult to say whether Ohio Power was decided correctly. On the one hand, as the Commission explained in its testimony last year, the case arose in special circumstances that are unlikely to recur. At the time the CHP LaserJet III HPLAS3.PRSSators were expected to benefit. On the other hand, to the extent that the decision can be read to challenge the ability of state and federal regulators to protect consumers in the ratemaking process, it is cause for concern.

Prior to the decision, the Commission believed that FERC had the authority to review the reasonableness of costs related to interaffiliate transactions. Although there was a possibility of conflict, the Commission sought to work in cooperation with FERC. Many of the Commission's orders, issued prior to the Ohio Power decision, expressly disclaimed ratemaking authority.

*Question.* In the Ohio Power case, Ohio Power was purchasing coal from an affiliate—Southern Ohio Coal Company—"at cost". At times, Ohio Power was paying in excess of 100 percent above the market price for similar coal. In 1989 Ohio Power's wholesale electric customers filed a complaint at the SEC requesting the Commission to review the reasonableness of the Company's coal costs. Five years have passed since the complaint was initially filed. Why hasn't the Commission acted on the complaint? Do you believe it is acceptable for an agency to fail to act on a complaint for five years?

*Answer.* I understand that in 1989, certain wholesale customers of Ohio Power intervened in an application involving that utility. When the application was subsequently withdrawn in 1990, the intervention was rendered moot, and no further Commission action was required with respect to that application. Thereafter, on November 27, 1992, certain municipal wholesale electric customers of Ohio Power filed a complaint with the SEC in connection with another Ohio Power application.

The company is engaged in ongoing efforts to address the concerns of the state and federal ratemaking authorities. According to the Commission staff, Ohio Power has negotiated a settlement of certain of its coal costs with state regulators, and is currently engaged in settlement negotiations with the state and FERC concerning the remaining charges. The staff has advised the company that it will recommend that this matter be set down for a hearing if a resolution is not reached within a reasonable period of time. It is anticipated that this matter will be resolved or brought to a hearing before the end of the year.

In this matter, it appears appropriate to delay formal Commission action while the utility attempts to resolve the cost issues with the regulators that most directly protect its consumers.

*Question.* In the past the SEC has advocated the repeal of PUHCA. Does the SEC continue to support repeal of the Act?

*Answer.* As noted by Senator Bumpers, the Commission supported repeal of PUHCA as recently as April 1991, when it submitted its "Authorization for Appropriations for Fiscal 1992 through 1994." Subsequently, the Commission has advocated reform—not repeal—of the Act. In view of the many changes in the industry, and the diversification permitted under the Energy Policy Act of 1992, it seems appropriate for the Commission to conduct a thorough study of the Act.

*Question.* How many people currently employed with the SEC work primarily on PUHCA issues? Does the Commission believe that this is a sufficient number of employees to carry-out its responsibilities under the Act?

*Answer.* In fiscal 1994, the Office of Public Utility Regulation, which is responsible for the day-to-day administration of the Holding Company Act, is comprised of 16 attorneys, 4 financial analysts, 1 accountant, 1 paralegal and 2 secretaries.

The Commission's resources in this area have been severely strained by its responsibilities under the Energy Policy Act of 1992, which amended the Holding Company Act to permit registered holding companies to invest in exempt wholesale generators and foreign utility companies. The Energy Policy Act gave the Commission primary responsibility to shield the consumers of registered systems from the potential adverse effects of these new ventures. In response to the expansion of its responsibilities in this regard, the Commission's fiscal 1995 budget requests eight additional staff years for the PUHCA activity.

*Question.* What is the current funding level for the SEC'S PUHCA division? What does the Commission believe is an appropriate funding level?

*Answer.* The Office of Public Utility Regulation, which forms part of the Commission's Division of Investment Management, has responsibility for the day-to-day administration of the Holding Company Act. As indicated in the answer above, the Commission has 24 employees working in this office at a cost of approximately \$2.3 million (including salary, benefits and non-personnel expenses). In fiscal 1995, the Commission has requested 8 additional staff years for this activity at a cost of approximately \$700,000.

*Question.* Last year the Vice-President began an initiative to "Reinvent Government". One of the primary goals of this effort was to make government more efficient by reducing bureaucracy. Do you believe it is efficient for both FERC and the SEC to review the same transactions, such as utility mergers, in separate proceedings?

*Answer.* Clearly, a system under which different agencies review the same transaction under similar standards is inefficient, and creates the possibility of inconsistent results. However, FERC and the SEC approach a utility merger on the basis of different statutory mandates. Congress enacted the Federal Power Act to regulate the wholesale interstate sale and distribution of electricity, and so, FERC is concerned in the first instance with operational issues. In contrast, the Public Utility Holding Company Act was intended to prevent financial abuses among public utility

holding companies and their affiliates. Thus, the SEC is primarily concerned with corporate and financial issues.

It appears that some overlap is inevitable under the current regulatory scheme. A particular transaction, such as a utility merger, may require approval from the SEC, FERC, the Nuclear Regulatory Commission and the affected state and local regulators. In addition, the federal antitrust laws may be implicated. To avoid conflicting determinations, the Commission has not acted precipitously in these matters, but instead has generally awaited state action and attempted to coordinate its efforts with FERC.

As noted in a prior answer, it seems appropriate at this time to undertake a thorough study of the Holding Company Act, in view of the fundamental changes that are occurring in the electric and gas utility industries.

*Question.* As you know, utility holding companies are seeking an amendment to PUHCA which would permit them to provide certain telecommunications services. It is my understanding that you have written to Congressmen Dingell and Sharp to express your concern about a PUHCA amendment proposal floated by Congressman Boucher. Given the utilities' poor track record with regard to diversification, do you believe it would be wise to repeal PUHCA constraints on utility holding company diversification?

*Answer.* On February 17, 1994, I sent a letter to Representatives Boucher, Markey and Sharp, stating that the diversification of public-utility holding companies into businesses unrelated to their core utility activities raises serious questions about investor and consumer protection.

In recent years, a number of holding companies exempt from regulation under PUHCA have undertaken ambitious diversification programs, only to meet with significant reversals. As a result, many have disposed of nonutility interests that have little connection to their core utility business.

Registered holding companies have escaped such losses, in large part because the Holding Company Act requires a "functional relationship" between a nonutility interest and the core utility business of the registered system, and so prevents diversification by registered holding companies into activities unrelated to their core utility operations.

This restriction does not apply, however, to investments in exempt wholesale generators and foreign utility companies. The Energy Policy Act of 1992 permits registered holding companies to invest, generally without limit, in these entities. At present, registered holding companies can readily invest up to \$7 billion in these entities. The Commission has adopted rules that are intended to protect consumers from the potential adverse effects of these investments. It is too early, however, to comment on the results of these new ventures.

Any attempt to loosen PUHCA's strictures must take into account the need to protect consumers. This issue is, of course, a key concern with respect to the various proposals to permit registered holding companies to engage in telecommunications activities that are unrelated to their core utility business. If unrestricted, the size of the potential investment in these activities may make it difficult, if not impossible, for the Commission to continue to protect the public interest and the interest of investors and consumers.

Chairman Markey and others have expressed concern that deregulation in this area could lead to a recurrence of abuses—such as self-dealing, cross-subsidization, the concentration of economic control in entities that are not susceptible of effective state regulation, and the creation of highly leveraged and complex corporate structures—that led to the passage of the Act in 1935. Any legislation will have to address these issues.

*Question.* I recently wrote Senator Hollings to express my concerns about utility holding company involvement in the provision of telecommunications services. One of the areas of greatest concern is the potential inability of FERC and the state utility commissions from ensuring that costs associated with the provision of load-management (conservation) services are reasonable as a result of the Ohio Power decision. Do you believe that the Ohio Power issue needs to be resolved before PUHCA is amended to permit utility holding companies to engage in the provision of telecommunications services?

*Answer.* Diversification into telecommunications activities would involve inter-affiliate transactions, and thus could give rise to a new set of Ohio Power concerns. As noted above, these concerns may be mitigated or resolved through administrative action. Among other things, the Commission staff is considering the possibility of a rule that would generally require a lower-of-cost-or-market standard for intrasystem transactions. In addition, the Commission has intensified its efforts to work in consultation with other regulators.

## QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

## SEC—USER FEES AND SELF-FINANCING

*Question.* For the past four years the subcommittee has partially funded SEC activities through a fee on securities registrations. Thus, the 1994 appropriation of \$260.3 million for the agency consists of \$57.8 million in directly appropriated funds and \$202.5 million in fee income that is deposited directly in the SEC appropriations account.

The 1995 budget request of the President assumes additional and new fee increases that would result in fees supporting the entire budget of \$306 million.

However, since the Administration's proposal would result in these fees being deposited in the Treasury not with the SEC, the subcommittee would actually be scored for the full \$306 million in budget authority and associated outlays. That would result in a \$200 million increase in outlays above the baseline.

In addition, the SEC is supporting legislation that would make the agency self-funded. However, that legislation is under the jurisdiction of the banking committee.

If the SEC were to become fully self-financed, what oversight role would be retained by the appropriations committee and the banking committee?

*Answer.* Self-funding for the SEC does not mean self-determination. Self-funding is only a mechanism to link SEC fees and its cost of operations. The SEC fully expects to remain subject, under self-funding, to the exact same level of oversight and control by the Senate Appropriations and Banking Committees, and their House counterparts, that exists today.

*Question.* What will be the impact on the agency if self-financing is not achieved in 1995? Is there anything wrong with the agency being partially funded through the general fund of the Treasury, along with almost all other agencies of the government?

*Answer.* If legislation is not enacted during this budget process to self-fund the SEC, the agency may not receive the necessary level of funding to operate in fiscal 1995. If the SEC must rely only on appropriated funds, we understand that it will be very difficult for the Congressional Appropriations Committees to increase the SEC's appropriated funds over the current level of \$57.9 million due to "scoring" and other budgetary rules. In the worst case, the SEC will be forced to furlough employees or layoff employees through reductions-in-force.

The likely resolution to this problem is that Congress will continue to fund the SEC through a combination of appropriations and offsetting fee collections. However, this funding process is difficult to manage since the agency cannot be assured of the amount of offsetting fee collections. The offsetting fee portion of the agency's funding is subject to market and other economic conditions that the SEC cannot control or anticipate. In the event of a shortfall in fee collections, the agency would not be able to plan its operations and expenditures in a reasonable manner. For example, the agency would be forced to defer needed expenses during the first half of the fiscal year until it received sufficient amounts of offsetting fee collections. This means that the agency must delay hiring employees and allocating travel funds for enforcement investigations and inspections of broker-dealers, investment companies, and investment advisers. The overall effect is less productivity for the SEC.

## QUESTION SUBMITTED BY SENATOR SLADE GORTON

## CLOSING OF THE SEATTLE DISTRICT OFFICE

*Question.* Earlier this year, you sent a reprogramming request to the Commerce Appropriations Subcommittee for the Securities and Exchange Commission's Pacific Region. This reprogramming plan consists of closing the Seattle District Office and incorporating its functions into the Los Angeles and San Francisco offices. I have heard from many people across the state who are very concerned about the impact this closure would have on the Pacific Northwest. These letters have ranged from the Attorney General, county executives, bankers, lawyers, small business, senior citizens, former SEC employees as well as concerned citizens.

I understand and agree with these concerns. This closure would be extremely harmful to the Pacific Northwest. With the population and the business of the Pacific Northwest growing, closing this office and relocating its functions to another state would be very damaging. Small business needs as well as investors problems would not be as efficiently and adequately handled as they are today. Also, the enforcement and regulatory role which is critical to the investing community would be severely weakened.

On Tuesday, May 3rd, the Senate unanimously adopted an amendment that I [Senator Slade Gorton] authored expressing the sense of the Senate which states "It is the sense of the Senate that the Securities and Exchange Commission district office in Seattle, Washington shall not be closed, nor its services, operations, or staff be reduced from the levels in effect on January 1, 1994. None of the operations of the Seattle office shall be transferred to another office of the Securities and Exchange Commission."

Knowing of all the opposition in the Pacific Northwest and the U.S. Senate's position on this issue, I suggest you should reconsider your position on closing the Seattle SEC district office.

I would appreciate hearing your response on this important issue.

Answer. The SEC is very sensitive to the concerns raised by Senator Gorton with respect to the impact of the Seattle Office's closing on the services and assistance which the SEC now provides to his constituents. The Commission is committed to continuing to meet the regulatory demands and effectively provide for investor protection in the Pacific Northwest. On May 5, 1994, I sent a letter to Senator Gorton stating that the Commission is confident that the Los Angeles and San Francisco Offices, augmented by the resources from the Seattle Office, will continue to provide effective coverage to that part of the country. The Commission is not lessening its regional presence in the Pacific Region. Rather, it is realigning its current resources in that area to achieve greater program efficiency and effectiveness on the entire West Coast, including the Northwest.

As mentioned in a prior answer, the decision to close the Office was based on an analysis of relevant demographics of the respective offices which make up the Pacific Region, including the number, size and type of regulated entities in these areas. More specifically, the Seattle District Office has jurisdiction over only about 3 percent of all regulated entities registered with the Commission (e.g., broker-dealers doing a public business, transfer agents, investment company complexes and investment advisers). By contrast, the San Francisco and Los Angeles Offices are responsible for approximately 17 percent of all such registrants.

As one measure of the relative growth in these areas, it should be noted that during the past ten years (1983-1993), the amount of money under management in investment company complexes in the area serviced by the Los Angeles and San Francisco Offices has grown from \$14 billion to \$231 billion. This represents a growth from 4.3 percent to 12.1 percent of all money under management in these complexes nationwide. However, in the Seattle District, money under management in such investment company complexes grew from \$3 billion to \$12 billion during this same period, representing a decline from .9 percent to .6 percent of all assets under management in registered investment company complexes.

Given the Commission's program demands and the significant growth of the constituencies it oversees around the country, it has become necessary to change the way in which the Commission deploys its staff. An effective organization in government, like an effective business, must sometimes make tough and unpopular decisions to maximize efficiencies in resource allocation and productivity of operations. The consolidation of the Commission's offices on the West Coast was such a decision.

I am personally committed to providing and maintaining an active presence in the Northwest area, and agree to revisit the area within six months of the closure of the Seattle Office to assess the success of the Commission's efforts to maintain this level of oversight and activity.

#### CONCLUSION OF HEARINGS

Senator HOLLINGS. The subcommittee will be in recess subject to the call.

[Whereupon, at 11:48 a.m., Thursday, May 5, the hearings were concluded, and the subcommittee was recessed, to reconvene subject to the call of the Chair.]

**DEPARTMENTS OF COMMERCE, JUSTICE, AND  
STATE, THE JUDICIARY, AND RELATED  
AGENCIES APPROPRIATIONS FOR FISCAL  
YEAR 1995**

U.S. SENATE,  
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,  
*Washington, DC.*

**NONDEPARTMENTAL WITNESSES**

[CLERK'S NOTE.—Due to the subcommittee's schedule, nondepartmental witnesses could not present testimony to the subcommittee, so by direction of the chairman, the following statements were received for inclusion in the record:]

**DEPARTMENT OF COMMERCE**

**STATEMENT OF JONATHAN L. TAYLOR, PRINCIPAL CHIEF, EASTERN  
BAND OF CHEROKEE INDIANS**

Mr. Chairman and Distinguished Members of the House Appropriations Sub-Committee on Commerce, Justice, State the Judicial and Related Agencies, I am Jonathan L. Taylor, Principal Chief of the Eastern Band of Cherokee Indians. Thank you for providing me the opportunity to submit testimony. Our Tribe consist of 10,700 members and our reservation contains 56,000 acres. We are located in the western part of the State of North Carolina, directly adjacent to the Great Smoky Mountains National Park.

Treaties forged between the United States and Indian leaders during the last two centuries created the foundation of Indian Law. These treaties with Congress recognize the existence of sovereign governments within the boundaries of the United States. As part of these agreements, the United States entered into a unique trust relationship with Indian tribes. President Clinton affirmed that his administration will give tribal government say in distribution of federal funds geared toward economic growth, affordable health care and improved education.

MINORITY BUSINESS DEVELOPMENT AGENCY - Our Cherokee Native American Business Development Center is funded through the Minority Business Development Agency, an office of the United States Department of Commerce. MBDA was originally created in 1969 by Executive Order 11625 and was known initially as the Office of Minority Business Enterprise (OMBE). The purpose of MBDA is to develop and co-ordinate a national program of financial and

technical assistance for minority firms. Technical assistance is broken down into the broad categories of accounting, procurement assistance, financial packaging, bonding assistance, marketing and general management.

Our program serves approximately 100 clients a year. Due to a funding shortage of \$100,000, we are unable to fund approximately 350 clients operating a business on the Reservation. Our main office is located in Cherokee and we operate a satellite office in Asheville, NC which now serves 17 counties located within Western North Carolina.

These services are invaluable to start-up minority firms and to those existing firms needing to expand. American Indian firms have an especially acute need for these management and technical assistance services because of the unique problems encountered on Indian Reservations. Problems, such as trust property being used to collateralize loans and secure bonding and dealing with a myriad of Bureau of Indian Affairs regulations and paperwork associated with leasing property, must be dealt with on a daily basis. Cherokee Indian Business Development Center services must be maintained to allow private Indian businesses to have at least a fighting chance of survival.

Unfortunately, funding to support MBDA's Indian Business Development Centers has not kept pace with the need. For the last three years, funding has remained static and incredibly, for the years of 1982-1989, funding decreased by 43%. As a result of these cut backs, staff of the Cherokee Indian Business Development Center has dropped from a high of six to the current level of four. Support and administrative costs such as supplies, phone and travel have also been reduced, which further limits the quality of services we can render.

To effectively deal with the needs of the Cherokee Business Community and for other Indian Centers throughout the country to deal with their needs, MBDA needs at least a 50% increase in current program funding levels. This would allow us to hire staff and secure support services at a level that would permit us to give the quantity and quality of service needed for our Cherokee firms' survival.

ECONOMIC DEVELOPMENT - The Eastern Band of Cherokee Indians continues to promote commercial and industrial development on the Reservation. It is our goal, through capital investments from both Indian and non-Indian entrepreneurs, to create jobs, sales and ultimately tax revenue to the Tribe. The resulting revenue and availability of goods and services on the Reservation will result in the reversal of Reservation dollars flowing to off Reservation communities. For example, a recent Reservation survey indicated that 85% of tribal member grocery purchases were made off the Reservation and 98% of non-grocery items, such as clothes and household goods, were purchased off the Reservation. This does not include substantial off-Reservation expenditures made by the approximately 350 local merchants.

To achieve economic self-sufficiency, as mandated in federal legislation, we must create a strong and positive investment in order to compete effectively with our non-Indian neighbors. If we fail in achieving this goal, our Reservation and its people will continue to make significant monetary contributions to the growth of non-Indian economies in western North Carolina, eastern Tennessee, and northern Georgia and South Carolina.

Since the mid-1940s the economy of the Eastern Band of Cherokee Indians has been based on tourism. While we have attempted to diversify our economic base over the years, the tourism industry continues as our top industry. Our efforts at economic diversity and growth have been severely hampered by federal procedures which place our tribe and others at a serious disadvantage when competing with non-Indian economic development agencies.

Modernizing governmental review procedures is woefully overdue. The Cherokee Reservation has not been able to keep up with the surrounding non-Indian communities in tourism or facility development, primarily because of the inflexible leasing regulations and the inordinate delays experienced by potential developers and investors. We believe much of this problem could be alleviated in Cherokee by delegation governmental approval on a local level. Additional emphasis should be directed toward direct and guarantee loans for economic development.

The government should take the initiative in the development of Indian enterprise zones or special investment tax credits for enterprises locating on the Reservation. We at Cherokee do not have the available capital to offset the incentives of surrounding communities toward business and industry. Over half of our sales tax (levy) receipts, approximately 1.5 million dollars goes toward providing police, fire, sanitation and solid waste service on the Reservation. These services that the Eastern Band of Cherokee Indians is providing is currently being provided by the Bureau of Indian Affairs on other Reservations. Over the years, I have continued to request the Bureau of Indian Affairs for assistance for these programs but have not had success. This fact, alone with the Tribal subsidy of other necessary programs has the Tribal government operating in a budget deficit situation. Our only salvation is to increase revenues through economic development on the Reservation, keep Reservation dollars on the Reservation and attract non Reservation dollars to the Reservation.

Over the years the Eastern Band of Cherokee Indians has received vital support from the Economic Development Administration, with the Department of Commerce. Planning and public works grants have been vital to previous economic development project successes on the Cherokee Indian Reservation. However, planning grant funds have decreased from \$55,000.00 in the 1970's to \$49,000.00 in 1994. Factored with inflation, it is obvious that the tribes planning capacity has actually decreased over the years due to availability of funds. We request Congress to increase appropriations of planning assistance funds by 100%. To adequately fund the economic development planning needs on the Cherokee Indian Reservation, we need to be funded at least at a \$100,000.00 per year level.

Public works grant programs in support of water and sewer infrastructure as well as industrial projects are a key to community and industrial development on Indian Reservations. The inadequate infrastructure within the Indian Reservation, as well as most rural America, poses substantial disadvantages in our efforts to attract new and expanding industry. The EDA Public Works Program is a vital tool in the funding support infrastructure related to community and industrial growth. I feel it is imperative that Congress fully funds the Economic Development Administration's Public Works needs.

GAMING - Gaming revenues have proven to be a critical aspect of economic growth in Indian Country, providing funding for delivery of basic government services to reservation residents (Indian and non-Indian), as well as assisting the development of Tribal and private business enterprises on reservations. The Administration should support legislation that would take the states out of Class III gaming compact negotiations in cases where states refuse to negotiate in good faith or resort to litigation challenging the constitutionality of the IGRA. In such cases, the law should authorize negotiation between tribes and the Secretary of the Interior or some other federal official to set the parameters of Class III gaming. While gaming was touted as one of the economic development tools which could become a basis for self-sufficiency by tribes, many states have passed legislation approving some form of gaming. Most are citing the success of gaming on Reservations as why non-Indians should also adopt gaming as a way to enhance their financial posture. In the near future the strongest competition to Indian gaming will be from the proliferation of non-Indian gaming opportunities, thus reducing the potential success of Indian gaming.

ECONOMIC DEVELOPMENT INFRASTRUCTURE - In order to promote and attract economic development related projects to Reservation communities, it is essential that basic infrastructure exists to support business development activities. At Cherokee we have placed the achievement and development of basic water, sewer, solid waste, streets/roads, sidewalks and street lighting as a high priority. We strongly encourage Congress to incorporate these basic economic and community needs within the appropriations.

ECONOMIC DEVELOPMENT INCENTIVES - Reservation Communities like many inner city communities experience extremely high levels of poverty, social problems, unemployment and underemployment. Again, I reiterate this is the result of difficulties in attracting business and industry to locate within Reservation communities.

I feel a mechanism to make Reservation communities attractive to capital investment is necessary to overcome the many trust and red tape obstacles which currently inhibit economic and community growth within our respective jurisdictions. The following suggestions are for the Committee's consideration: (1) Establish Reservation communities as Enterprise Zones and provide special investment tax or related incentives for business investment on Tribal lands. (2) Increase planning assistance grants to Tribes. (3) Increase the appropriations for public works programs. The above three are vital in providing a competitive advantage for Tribes competing with adjacent communities/areas for economic development opportunities.

TOURISM - In the Rural Tourism Initiative signed by President Bush, a program was introduced to develop tourism in rural America. Included is the potential that exists on many Reservations; however, the legislation does not provide any financial support to carry out suggested programs of tourism development. Within the structure of the Initiative, a Rural Tourism Foundation was established which is to raise monies which will be available through grant applications. Indian representation on the Foundation

Board is mandated but this position has not been properly filled as required in the legislation.

The Department of Commerce must include tourism as a major part of their economic development programs in assistance to tribes as much of rural America, and the government, sees tourism as a new frontier to be developed.

I request the Department of Commerce to recognize tourism as having a strong potential for economic development on Indian Reservations and to integrate tourism as a priority. I also urge the Department to interface with other federal agencies, such as the United States Travel and Tourism Administration as well as qualified tribes such as the Eastern Band of Cherokee Indians, in formulating policies and procedures to assure tourism development on Indian lands will keep pace with development in non-Indian areas of the United States. Outcomes of federal tourism meetings should funnel down to tribal governments who are the direct beneficiary of such data.

Tourism to Cherokee generates about 75 percent of our economic base. Our marketing efforts are a result of both the tribe and private business community each contributing about 50 percent of the finances. No federal funds, other than infrequent grant monies, have been used to assist us in our tourism promotional efforts. Each year, with our very limited resources, we find ourselves at a strong marketing disadvantage. Gatlinburg and Pigeon Forge, just 35 miles away in Tennessee, spend over \$4,000,000 in advertising while Cherokee's budget is about \$280,000. We are forced to struggle in a highly competitive industry without a large menu of options for assistance.

I also urge the reading of the "Customer Views on Federal Policies, Programs and Activities Related to Travel, Tourism and Recreation" which is part of the Department of Commerce's recently completed Focus Group Report for the Tourism Policy Council. This document is important since it is the private sectors' voice regarding federal tourism programs and policies.

So again, Mr. Chairman, we are expressing some heartfelt burdens the Cherokee's face due to budget restraints effecting the economic development of the Cherokee Tribe. Your participation in recognizing tribal sovereignty, upholding the federal trust responsibility and building a tribal-federal relationship based on mutual cooperation and respect will enhance the advancement of our Tribe.

In closing, Mr. Chairman and Distinguished Members, I would like to extend my appreciation to you for providing the opportunity for me to present this testimony. The Eastern Band of Cherokee Indians has enjoyed an extended and productive relationship with Congress and this Sub-Committee and we are extremely grateful for the support and understanding you have provided to the Cherokee Tribe.

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**STATEMENT OF ORLANDO R. POZZUOLI, PRESIDENT AND CHIEF  
EXECUTIVE OFFICER, SACRED HEART HEALTHCARE SYSTEM**

Mr. Chairman and Members of the Subcommittee, thank you for providing me with this opportunity to provide a statement for the record to your Subcommittee. In my testimony, I will tell you about a unique, long-range plan to improve the delivery of health care and social

services underway in Allentown, Pennsylvania that will assist the City in its economic development efforts.

Specifically, Sacred Heart HealthCare System, in concert with city and county officials, is in the process of developing the Allentown Health Park. The Allentown Health Park will integrate health care and social services to provide the recipients of these services with a "seamless" continuum of care. It will also put added resources in the hands of providers. Social services agencies will be better equipped to assist their clients with health care issues. Further, there will be improved coordination among the various agencies. Similarly, health care providers will be able to coordinate with social services agencies to augment the care of patients. For instance, Sacred Heart will be better able to assist elderly patients by working closely with the Lehigh County Senior Citizens Program to ensure that the patient will be well cared for after leaving the hospital; and the social services agencies can insure that a low-income expectant mother will get adequate prenatal care. Finally, the presence of all of these services in a central location provides convenience for the recipients of services and incentive for them to utilize services.

The Health Park will be located in the center of the city, adjacent to Sacred Heart, a 293 bed acute care hospital. This neighborhood is among the most disadvantaged in the City. In addition to the hospital and an existing medical office building, the Health Park will include the Center for Primary Health and Family Practice Development, an out-patient cancer center with medical offices, housing for the elderly, the county human service agencies, city health services, and community social service organizations.

Although the City of Allentown and Lehigh County are active participants in the Health Park, I will address only the health care delivery aspects of the park, particularly the Center for Primary Health and Family Practice Development, for which Sacred Heart is seeking support from your Subcommittee under the auspices of the Economic Development Administration in the sum of \$7.75 million in Fiscal Year 1995.

#### **The Center for Primary Health and Family Practice Development**

Sacred Heart HealthCare System has been operating as a non-profit institution in Allentown since 1912. Since its founding, providing health care services to those in need has been at the cornerstone of our philosophy; as a result, we have a profound understanding of the health care needs of the community and know that these necessary services cannot be adequately delivered in a hospital setting. It is for this reason that we have pursued and begun to implement the proposal I am about to describe to you.

It is our vision that the Center for Primary Health and Family Practice Development will serve as the anchor of the Health Park. Specifically, the Center will be dedicated to the delivery of primary and preventive health care services to the medically underserved residents of Allentown in an environment designed to contain spiraling health care costs. The Center will focus on disease prevention, health promotion (maintenance and screening), health education, and when necessary, provide treatment and intervention. By focusing on prevention and early detection, costly hospital stays can be reduced and the health status of the population improved. The services provided will be culturally sensitive, allowing for broader-based use by the at-risk population.

The Center will also focus on community education in the areas of primary care, preventive medicine, health maintenance and promotion. This program will raise community awareness and encourage individuals to assume more responsibility for their health and the health of their families. Finally, the Center will serve to increase the number of medical professionals who practice family medicine in the Allentown area and in the region. The Center will be a model teaching facility for Family Practice residents, who are well-suited to deliver primary care services. The Center will also provide training for nurse practitioners who desire to specialize in a primary care discipline, and for dental residents. Because of Sacred Heart's

longstanding leadership role in the delivery of primary care in Allentown, we feel that we are uniquely qualified to develop the Allentown Health Park and to operate the Center for Primary Health and Family Practice Development.

#### **The Need for Services**

There is little doubt that there is a tremendous need in Allentown for the innovative approach to health care and social services that the Health Park, and the Center for Primary Health and Family Practice Development in particular will provide. The following profile of the City of Allentown will shed considerable light on this need.

The City of Allentown has a population of 105,000 and is home to growing populations of elderly residents and minorities, particularly Hispanics. The elderly account for 17 percent of the City's residents and this population will increase significantly in the next 10 years. Hispanic residents make up another 12 percent of the population. In addition, 22 percent of the City's residents are children.

Many of Allentown's residents are considered low- and middle-income earners. An overwhelming 33 percent of Allentown's 42,600 households rely on Social Security income. As measured in dollars, these residents have a mean Social Security income of \$8,256 a year. Another 8.5 percent of Allentown's residents receive public assistance. According to the latest census, 13 percent of the City's residents live below the poverty level. Among children under the age of five, 26 percent live in poverty, and 51.5 percent of all Hispanic children in the City live in poverty, ranking Allentown tenth nationally.

#### **Health Care's Role in Economic Development**

Research shows that programs which seek to improve the health status of the community aids economic development by reducing health care costs, reducing the incidence of potentially debilitating diseases, improving sanitation, and maintaining a healthy population. In addition, the Center will help to revitalize, beautify, and improve the security in the neighborhood. Under the Public Works and Development Facilities Program, the Economic Development Administration has outlined several criteria that proposed projects should meet. Sacred Heart firmly believes that its proposal to establish the Center for Primary Health and Family Practice Development satisfies four of the five selection criteria.

**Job Creation:** The Center for Primary Health and Family Practice Development will create jobs for Allentown residents in both the short- and long-term. In the short term, the construction of the Center will add 200 jobs for the construction trades for approximately one year. As is its long-standing policy, Sacred Heart will only use local tradesmen and contractors to ensure that the funds used to build the Center also aid the local community. Supporting local manufacturers, contractors and tradesmen creates spin-off revenues that serve to further strengthen the economy. In the long term, the Center will create high-skilled and well-paying jobs for the health care and social services professions. These jobs include physicians, dentists, dental hygienists, nurses, nurse practitioners, technicians, social workers, translators and medical clerks. In addition, a limited number of positions will be created for workers in security, environmental services and groundskeeping. Finally, the Center will allow for the retraining of Registered Nurses and other health care professionals to practice in an ambulatory environment rather than an acute care setting, which will better serve a reformed health care environment.

**Benefits to Lower Income Families and the Unemployed:** The entire premise of the Center is to provide accessible and affordable health care services to the medically underserved who live within the city limits of Allentown. In many cases, the Center will provide the only health care services available to the underinsured, uninsured and unemployed. It is expected that these residents, many of whom do not have access to primary and preventive health care

services, will represent the majority of patients using the Center. Further, Sacred Heart has long been the anchor to maintaining the vitality of downtown Allentown. As Sacred Heart expands its presence in and commitment to downtown Allentown, the security, appearance and economic viability of the local community will be enhanced.

**Fulfillment of Pressing Needs in the Area:** There is ample evidence that there is a great need for a primary health care facility in Allentown. In fiscal year 1992, Sacred Heart's clinics, which deliver care to residents with a limited ability to pay for medical services, registered more than 16,000 visits. Additionally, Sacred Heart's emergency room is providing non-emergency services to area residents. According to hospital records, 50 percent of the 33,600 visits to Sacred Heart's emergency room in fiscal year 1992 were categorized as non-urgent. Hospital records also indicate that the emergency room serves primarily Allentown residents and that a majority of these patients receive medical assistance or do not have insurance. In fiscal year 1993, 84 percent of the patients seen in the emergency room were from Allentown. Forty-seven percent of all patients seen in the emergency room relied on medical assistance, while another 10 percent did not have any insurance at all. An astounding 70 percent of the patients on medical assistance who received services in the emergency room resided in the hospital's zip code.

**Community Support:** The Center has broad-based support among Allentown's elected officials, the Allentown School District, local business leaders, as well as the Lehigh County government officials. Sacred Heart believes in the City of Allentown and its economic viability, and has been working with business and community leaders toward the renewal of and investment in traditional neighborhoods. Sacred Heart and the Center will be a vital partner in this process. Specifically, the Center will replace a row of dilapidated homes, several of which are unsustainable. This will add to the overall safety of the neighborhood through the presence of the clinic's staff and patients, as well as the hospital's security force. In addition, because the Center will provide conveniently located services to local residents, it will enhance the concept of a traditional neighborhood that Allentown officials are attempting to rebuild. Further, Sacred Heart will continue to provide health care services to the employees of local and county government and the school district.

#### Meeting the Challenge

Although bringing all of the necessary elements together to create the Health Park is a challenging task, Sacred Heart has already made significant strides. Sacred Heart has been working closely with city and county officials on the plan, and has consulted with experts at local colleges about developing improved education and training programs. Most recently, the hospital broke ground on the out-patient cancer center and a medical office building. This project will be completed in January of 1995 at a cost to the hospital of \$6.5 million. In addition, Sacred Heart has to date expended \$1.25 million to expand primary care services. We also plan to invest another \$1 million in the Center for Primary Health and Family Practice Development.

We are very proud of what we have been able to accomplish to date. However, the need for expanded health services is growing rapidly and we know that we must do more in the near future. Sacred Heart continues to struggle with the economic and health care realities that its service population faces, but cannot overcome this challenge alone.

As such, Sacred Heart and the Allentown community are seeking a Federal contribution of \$7.75 million to establish the *Center for Primary Health and Family Practice Development* to be located in the Allentown Health Park. We hope that you will give this proposal serious consideration as you and your Subcommittee make spending decisions for Fiscal Year 1995.

Again, thank you for allowing me to present this statement.

STATEMENT OF DELANO E. LEWIS, PRESIDENT, NATIONAL PUBLIC  
RADIO

Mr. Chairman, I am pleased to submit testimony on behalf of National Public Radio (NPR) and its 492 member stations in support of FY 1995 appropriations for the Public Telecommunications Facilities Program (PTFP), administered by the National Telecommunications and Information Administration (NTIA). We request an appropriation of \$35 million in FY 1995 to meet the equipment needs of existing public radio stations and to continue funding the expansion of the public radio system.

The PTFP provides matching grants to help public radio licensees purchase equipment to put new stations on the air, extend service of existing licensees to unserved and underserved audiences, and to upgrade or replace worn-out and obsolete equipment. It has been a key factor in building a public radio system that now reaches close to 90% of the American public with a local public radio signal, in some cases for the first time. This ability to bring award-winning and diverse news, information and cultural programming such as MORNING EDITION, TALK OF THE NATION, ALL THINGS CONSIDERED, PERFORMANCE TODAY and WADE IN THE WATER to a national audience is an ongoing commitment at NPR. With the support of PTFP, we hope to reach 95% of the country by the year 2000.

Since its inception in 1963, the PTFP has invested \$448 million in the purchase and maintenance of equipment. These funds have been critical to NPR member stations and have served to leverage millions more in private donations.

The ratio between PTFP grants applied for and the number of grants awarded demonstrates the importance of this program and the relative scarcity of funds. In 1993, 305 grant applications totaling \$77 million were filed. Of those, only 105 were awarded, totaling \$20.8 million. In spite of this fact, the administration requested only \$10.7 million for PTFP in FY 1995. This represents a 55% cut from the \$24 million approved for FY 1994. We think this is a serious mistake. By cutting the program that dramatically, the Administration is inhibiting the program from meeting all of its missions: expanding into unserved markets; serving minority and other underserved audiences; and replacing and maintaining equipment at existing stations.

**Expansion of Public Radio**

Public radio continues to expand its service to unserved and underserved audiences with the help of PTFP grants. In FY 1993, 22 grants were awarded that will bring first public radio service to new audiences.

At KUAR in Little Rock, Arkansas, a PTFP grant of \$59,000 helped the station buy four new translators, allowing them to extend their service to four areas for the first time. Those communities, Hope, Monticello, Forest City and Batesville are very rural and isolated, and do not have many cultural resources. In some cases, public radio provides the only outlet for rich and diverse cultural programming.

For example, one locally produced documentary that was delivered to these listeners via KUAR, "From Spiritual to Symphony," chronicled the story of a local woman, Florence Price Smith, who was the first black woman composer to have her work performed by a major symphony orchestra. It received national recognition,

winning an award from the Society of American Women in Radio and Television.

In Albuquerque, New Mexico, KUNM was able to purchase six new translators with the help of a PTFP grant of \$38,000, bringing first public radio service to five communities, and a more diverse array of programs to the sixth. These communities include a Navajo reservation, Cuba, Socorro, Thoreau and Cimarron.

In addition to carrying NPR, KUNM is committed to providing programming that is geared to minorities and women. Their line-up includes both a Spanish language and a Native American program. They also produce a black gospel show and a children's program that features music and stories.

With PTFP assistance, West Virginia Public Radio (WVPR) was able to extend its network signal to two new communities, Elkins and Clarksburg/Bridgeport for the first time. But, 30% of West Virginians still do not have access. In many cases, the mountainous topography requires that these communities each be served by their own transmitters. These factors, coupled with the State's depressed economy and relatively small, primarily rural population means that federal investment is a must.

WVPR is an important asset to the State. It serves as the only source of comprehensive statewide daily broadcast news, and provides the only in-depth national and international news available to many of its citizens. The station broadcasts music, fine arts, public affairs, and children's programming that can not be found elsewhere. One program, MOUNTAIN STAGE is a live, two-hour music program that is distributed weekly to over 120 stations across the country.

WVPR is committed to reaching the 30% of West Virginians who are missing out on the rich and diverse array of programming and services provided by public radio. They are currently working on a project that will further that goal by bringing first public radio service to two different areas of the state, and by replacing their land-based microwave system with satellite technology. The cost of this initiative will be \$750,000, and the station is counting on PTFP for support.

At NPR, we believe that the cultural, educational and informational opportunities provided by public broadcasting should be available to all Americans, not just those in the bigger cities and towns. Providing universal access to public radio continues to be one of our primary objectives. PTFP has played a critical role in this effort, and we hope we can continue to rely on the program for assistance.

#### **PTFP is Essential to Public Radio Stations' Ability to Upgrade Equipment and to Remain Competitive**

The majority of public radio stations rely on PTFP funds for replacement of old and obsolete equipment. As the public radio system matures, an increasing number of stations are operating with worn-out or outdated equipment. Many of these stations are state and university licensees that are not allowed to launch capital campaigns. In addition, stations located in small cities and towns have difficulty finding the resources in their communities to provide major capital support in addition to on-going operating support for the public radio station. Consequently, PTFP grants for replacing expensive equipment such as towers and transmitters have become increasingly important. While public radio stations are raising an increasing portion of their annual budgets from non-federal sources - federal funds

provide an average of only 17% of stations budgets - major equipment purchases are still beyond the reach of many stations.

PTFP will also be an important player in this decade as digital radio broadcasting and high definition television are introduced in the United States. These new technologies will require new equipment, the cost of which could be prohibitive for many public radio stations. The PTFP will be important in ensuring that public radio stations are not left behind as new delivery systems are introduced.

One way the NTIA anticipates it can accomplish its goal of cutting the PTFP by 55% is by reducing their commitment to equipment replacement. Not only will this prevent stations from buying the equipment necessary to provide consistent and reliable service, but it will inhibit their abilities to take advantage of new, more efficient technologies. Given the amount of money that has already been invested in public broadcasting through the PTFP - almost \$500 million - it makes sense to protect that investment and not to let equipment completely deteriorate.

WVPR learned a painful lesson about equipment replacement during the terrible storms that plagued most of the country last winter. Many parts of West Virginia were without electricity for a two-week period in January. The station's main microwave site was in one of the affected areas. Since the microwave system is located in a remote area with rugged terrain, the electrical power supply for the system is often the first to go and the last to be restored. As a consequence, all WVPR listeners outside the Charleston area were without a public radio service for more than a week. Ironically, at a time when listeners most needed WVPR for news and information about the storm, they could not get it.

Satellite transmission will solve this problem. However, the portion of the PTFP funds that WVAR is requesting that would be allocated to upgrading their transmission facilities is precisely the type that will be jeopardized if Congress only appropriates the \$10.7 million for PTFP that was requested by the Administration.

In Sitka, Alaska, KCAW is the only public radio station serving the community's needs. The station also provides service to the many remote villages situated in Alaska's inland passage. Nearby fishing villages which are extremely isolated and rely heavily on KCAW for their only daily weather information, as well as local, state and national news.

Most of KCAW's on-air broadcast equipment is 12 years old, and suffers from over-use, since the station is on 24 hours each day. During the past year, the station experienced equipment failure in both their news room and satellite operations facilities. Their only alternative to replacement is to continue repairing existing equipment. Some of it is so old that replacement parts are no longer available, and the time it takes to complete the repairs is extremely disruptive to service. The equipment KCAW hopes to purchase with a grant from PTFP will carry them into the next century.

At KUNM in Albuquerque, the station has applied for a \$30,000 grant from PTFP to replace obsolete equipment. They want to purchase a digital audio tape recorder, a multi-track console and an eight-track recorder. So much of the material aired by the station is on digital that they need the new equipment to accommodate the technology and to remain competitive with other stations using state-of-the-art facilities.

In addition to being an NPR member station, KUNM is also a community radio station. They support local artists through live remotes and in-studio performances. They have a significant schedule of locally originated public affairs programs, several of which have won awards from the Associated Press. One documentary was on a gang intervention program, and another featured a series of writers from the southwest, reflecting on the multi-cultural heritage of the region.

KUNM provides an invaluable service to its listeners. The station should be able to continue broadcasting this outstanding programming without the impediments of outmoded equipment that has fallen into disrepair.

Fundraisers at stations across the country tell us the important function PTFP serves in raising money from businesses, the not-for-profit community, and from individual donors. It serves as both an incentive and as a tangible goal toward which to work. PTFP equipment replacement funding is the core for capital projects such as the upgrade of signal delivery systems. If public radio is to remain viable and competitive, PTFP support will be critical.

**NPR Supports the Objectives of the Administration's Planned Investment in the "Information Superhighway"**

Congress and the Administration are working now to ensure universal access to the "information superhighway." The development of a broadband, interactive telecommunications network linking schools, libraries, health care facilities, governments and other public information producers offers exciting possibilities for public service. Public radio has an important role to play in the development of this information highway. The existing network of stations across the country provides an infrastructure that is ready to be augmented by new technologies.

Public radio supports and encourages the development of the information highway, but the realization of its promises is years away. In the interim, it does not make sense to allow services that already serve hard to reach areas to go into disrepair. In addition, public radio stations may be important players and partners in serving communities via the information highway. It is important that they remain viable.

**Conclusion**

Mr. Chairman, we thank you for your past support of the PTFP program, and encourage you to support a FY 1995 appropriation of \$35 million. This money is critical to reaching our goal of providing universal public radio service, replacing old and obsolete equipment, taking advantage of new delivery systems and being part of the evolving information infrastructure.

**STATEMENT OF DR. MELVIN VULGAMORE, PRESIDENT, ALBION COLLEGE**

Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to present this statement. Albion College and the City of Albion, Michigan have formalized a partnership to focus on issues that affect the campus and community. Recognizing that the College and City are inextricably linked, leaders from both entities have come together to cooperate toward solving some of the problems that have plagued the City of Albion for years. The City of Albion is in a designated Economic Development District and the on-going and proposed programs of the College in partnership with the City fit well with the definitions of the

Economic Development Administration's grant programs. However, the reality of those programs, in terms of the funding available, renders this option unpromising.

Mr. Chairman, while we have explored grant opportunities in conjunction with the EDA and other federal assistance programs, there currently is not a source of funding for the scope of what we must accomplish in a short amount of time. The pending Economic Development Reauthorization Act as reported by the House Public Works Committee contains a program description for "University Centers." This program describes our curriculum and needs perfectly but the funding available for these Centers is quite small. We need Congressional assistance to provide a model to pave the way for smaller community economic redevelopment projects similar to ours. The Economic Development Administration programs, as they exist, no longer fulfill their mission of assisting these localities and it is important that Congress use its discretion to make these programs effective.

For example, chief among our problems is a decaying urban infrastructure which has been exacerbated in recent years as businesses which once served the flourishing auto industry migrated away leaving behind environmental problems, double-digit unemployment and a large social service caseload. This is typical, in varying degrees, among communities in the midwest and elsewhere in the U.S. where the industrial base is in flux. The City of Albion and Albion College have been collaborating on these issues for years now and I would like to argue that our years of experience in implementing successful partnership programs on a shoestring budget, qualifies us to become a national model.

We propose to accomplish this through the establishment of a Center for Leadership and Service. This Center will pull all of our collaborative programs together under one roof. We are renovating the educational wing and offices of the First United Methodist Church of Albion which adjoins the College campus and fronts on Michigan Avenue, a main artery of the City. The College plans to bring together there the presently scattered administrative and student leadership, and focus its widespread partnership efforts with the city. These programs will be consolidated into a one-stop center for community, student and faculty volunteers.

We are dedicated to making our town-gown partnership work and we have been successful on a number of problems. Our most recent victory, was accomplished with the help of Congress in 1992. It involved groundwater and drinking water contamination which was a result of carelessly abandoned foundries. We obtained a HUD grant through a Congressional set-aside to begin searching for a new wellfield. While we are still looking for the funding to make a clean water supply a reality, this and other related successes gave us the impetus to explore further areas where the College could be of assistance to the City. Beginning in 1987, with a three year, \$470,000 W.K. Kellogg Foundation grant, the "two Albions" joined forces to promote civic involvement and leadership. The continuing theme of this highly successful program is "education for citizenship" with a focus on training students and citizens in the skills of democratic leadership. In the spirit of "National Service" and with sponsorship by the College, our leadership program emphasizes volunteerism for local action in the context of local commitment.

The building of interdependence in the community will foster tangible outcomes for people, students, and city governance. The goals of the program are an increase in the quality of life for the people of Albion and practical experience for the student who will develop a "habit" of service and community involvement. Albion College, a liberal arts institution of 1600 students, has a national reputation for educational excellence and has the resources that, with a relatively small investment for expansion, can bring about measurable results for community development which can be replicated nationally.

Without federal assistance, the College would be forced to abandon the community because it cannot take on the total responsibility for revitalization. Our goal is to empower the citizens of Albion to manage their own community. The recognition of need and grant award by the federal government has given us hope that communities like ours are not forgotten. We are now enthusiastic about our future as we expand our outreach capabilities.

Albion College, in conjunction with the City, will expand upon current programs and develop a two-track approach to meeting the community's needs. A task force co-directed by the College President and the Director of the Chamber of Commerce, Albion Alliance 2000, which includes representatives of the town and the college continues to identify and implement efforts designed to attack the current challenges of housing, health care, and water quality, as well as overall economic development. The first component of the program will focus on college-school partnerships, civic participation and community outreach. The second component will be a concentrated effort to improve the quality of education for elementary and secondary school students. Education of Albion's youth is absolutely crucial to the City's continued efforts to revitalize itself economically and socially. The proposed Albion program will also provide courses and services for adults seeking to continue their education. Programs will reach out to the adult community with such services as clinics on legal aid, banking and personal finance, as well as women's health and job-seeking skills.

The concept of a College-sponsored and run Center that could focus regularly on numerous city activities and problem areas has become an Albion partnership priority. The proposed Center For Leadership and Service will link the resources of talent, training, and programs of the College with elected officials and management of the city in an effort to tackle this microcosm of the challenges of urban America.

Albion College is one of the finest co-educational liberal arts colleges in the country. Serving more than 1600 students, it is now the second largest employer in the City of Albion. The approach to education at Albion is value-oriented. There is a concerted effort to develop depth of character and a sense of personal integrity. As a liberal arts college, Albion encourages students to become familiar with principles, issues and ideas important to our times.

Over the past six years, approximately 50% of the College's students have participated in some type of community service or volunteer activity. This commitment is driven by a liberal arts curriculum which encourages students to observe and understand the world around them. This focus has helped students to recognize the deep and embedded problems affecting the City of Albion.

There are several programs of the College which, with retraining and refocusing, can provide a unique demonstration of City/College, public/private, educator/citizen reform and community development. The primary focus for the new Center's program will come from the Albion College, Gerald R. Ford Institute for Public Service.

Many students come to Albion because they know the College provides excellent preparation for those with a particular interest in dedicating themselves to public service. To supplement the large number of courses in public policy and related fields, the College offers student Internship programs at all levels of government in the U.S. and abroad. Founded in 1978, this highly selective program was the first undergraduate program of its kind in the country. The City of Albion, like other municipalities across the country, desperately needs the expertise of graduates, like those from Albion, in order to lead a new concept of public service dedicated to improving our communities outside of the usual government programs. The College anticipates the students of the Institute to be the leaders of the Center for Leadership and Service.

Another major resource of the College is the Sleigh Leadership Program. This program, fosters and guides the voluntary service of students and will certify their participation and achievements with a co-curricular transcript at the end of four years. The philosophy is that leadership and service or volunteering are opposites sides of the same coin. New courses in leadership, particularly Freshman Seminars and senior capstone courses, will engage students in conscious maturation in the arts of citizenship and democracy.

The final, established and fully operational component to be integrated under the umbrella of the new Center is the Anna Howard Shaw Women's Center. This will be a very important outreach aspect of our proposed program. This Center has been effective in delivering counseling as well as social programs designed for female students. With the establishment of the Community Service and Leadership Center, a larger role for the Women's Center will involve assisting adult women to receive further education and finding career opportunities for

women reentering the work force. Women's health will also be an emphasis. The health services provided by the Center will include a physician, physician's assistant/nurse practitioner and two full time R.N.s. This staff will provide for student and community needs. The energies of the Center will be aimed toward adult women in the community since they are, many times, the locus of the cohesiveness of family life and values.

In addition to the expansion of the programs and services mentioned previously, Albion proposes the following additional activities to be run by the Center -- many of which are beyond planning and well into implementation:

**Public Housing and Rehabilitation:** Students and faculty members will work with community residents to repair, rehabilitate, and clean up public housing units in the City of Albion. This program will encourage citizens to work with College representatives and seek to instill a sense of pride in individuals' neighborhoods. The College is taking the lead in establishing a chapter of Habitat for Humanity.

**Identifying Job Opportunities:** While Albion College does not have the resources to perform vocational training, both faculty and students, in conjunction with the College Office of Career Development, will participate in a job retraining and identification program. This program will help workers to identify previously learned skills that may be applicable in other industries as well as act as a local job bank. If one of the City's major employers, such as Harvard Industries, closes, this outreach effort will work with displaced workers to find alternative employment opportunities according to their skills. In addition, pre-college workshops will be conducted for junior and senior high school students in the community as well as adult education courses (i.e., interviewing skills, written correspondence and career testing) will be conducted in partnership with the Albion Public School system.

**Political Participation:** Albion believes that one of the keys to a successful program is the active participation of minorities in the political process. Involvement and empowerment within city government and the political process is crucial. The minority bloc of voters in Albion is seriously underrepresented. The College's faculty and students will begin a program to increase interest in public policy among the minority community and therefore, increase their involvement in the political process. Public policy forums on campus, candidate's nights, and voter education and registration will all be part of this effort.

**Outreach to Area Youth:** Albion College has an excellent relationship with the Calhoun County Human Resources Center which provides professional therapy and other psychological support to the County. The Albion College Counseling Center, working in conjunction with the Calhoun clinic, can offer convenient service to youth for substance abuse and other counseling needs. In addition, the students of Albion College will expand their participation in programs such as Big Brother/Big Sister and Special Olympics to aid increasing youth activities within the city to help keep young people off the streets and work to raise the spirit of the City. The Center will act as a coordinating point for these activities, including recruitment, and will use its resources to identify additional community needs and devise programs that will provide educational extracurricular activities for Albion youth.

In combination with these social outreach programs, the Center and the College Department of Education will work with the local elementary and secondary school system to devise educational outreach programs and efforts for disadvantaged children. As a liberal arts school that produces a significant number of future teachers, Albion College is well-suited to pursue this effort.

The College will institute a broad mentoring program which matches school children with individual college students, teachers, and possibly town residents, to assist in their studies. This type of program, which the College is doing now on a pilot basis, will benefit children most directly but also enable college students to experience teaching and tutoring. Albion will also institute more innovative programs to increase the quality of education and tutoring provided to students.

**Teacher Retraining:** Faculty members at Albion College will hold teacher retraining sessions for Albion's public school teachers. College faculty at Albion are on the cutting edge of implementing new teaching techniques.

**Intervention:** To address Albion's secondary schools' alarming dropout rate, College students will meet with and counsel area high school students to discourage them from quitting school. Hopefully, a message from young students will prove more effective than past attempts to retain students in school. Through exposing students to Albion College's art and athletic facilities, College students will demonstrate that education involves more than textbooks. The college will also expand upon outreach to eighth-graders to encourage them to become college-bound.

**Recruitment:** College students and faculty will meet with promising individual high school students and encourage them to continue their education after graduation. This effort will not be directed towards recruiting students for Albion College, but rather increasing the number of students who enter higher education. The Admissions Office will work to enroll adult citizens in degree-seeking paths.

In addition to all of the programs listed above, there are other services of the College that will be made available to the community through the Center. These programs, which will be run by the various Departments within the Office of Student Affairs and will include multicultural affairs initiatives such as a Saturday Science Academy, a "History of the Black Community of Albion" project, and mediation training and services; the Chaplains Office will run programs in conjunction with various church groups and religious leaders in the community; and the Department of Campus Safety will conduct joint programs with the Albion Department of Public Safety on crime prevention and safety.

Albion is seeking federal partnership assistance toward our total budget of \$9 million dollars to purchase and renovate the facility for the Center. This includes road improvements and other infrastructure considerations to run it. Albion will assume all operating and program costs beyond this one time federal grant. We anticipate matching assistance from private sources if a large enough portion of our request is granted. It is desire that the "two Albions" will form a model partnership system that can be replicated by other colleges and communities around the country as an effective way for smaller communities to achieve economic revitalization.

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STATEMENT OF GARY A. GLENN, PRESIDENT, MASSACHUSETTS  
FOUNDATION FOR EXCELLENCE IN MARINE AND POLYMER SCIENCES,  
INC.

#### Atlantic Fish Stock Demonstration

I am pleased to provide this statement to this Committee on behalf of a consortium of academic and research institutions that have been working together on marine economic and technology issues for a number of years. Financial support has come mostly from the states and private sector, but we now request participation by the federal government in a program designed to respond to the catastrophic collapse of commercial fish stocks in the Atlantic Ocean.

As this Committee knows too well, fish stocks in the Atlantic have been declining for at least a decade. Despite clear warnings of impending doom by

scientists and environmentalists, the policy apparatus designed to preserve the Fishery has been unable to effectively manage the resource, so that stocks of one species after another have collapsed. According to NOAA's publication Status of Fishery Resources off the Northeastern United States for 1993, and to a Report commissioned by the Massachusetts' Centers of Excellence Corporation, The Marine Economy of Massachusetts, many commercially important species have been critically overfished, including Atlantic cod, haddock, redfish, silver hake, yellowtail flounder, black sea bass, bluefish, and sea scallops.

The Congress has responded to the devastating economic impacts on the Atlantic fishing industry by assisting with job training for former fishermen, with Saltonstall-Kennedy grants, with revolving loan funds for new gear, vessel debt restructuring, and with SBA loans. Important as these steps are, they cannot deal with the negative multiplier effects of the collapse of the fishery: the economic calamity in coastal towns, already hard hit by job losses in other areas; the loss of markets for U.S. fish and fish products, with the resulting negative balance of payments impacts; and, the incalculable loss to all Americans of a major source of food and nutrition - namely, fresh, locally caught fish.

#### Potential for Reestablishing Stocks

The concept of stocking bodies of water with fish is more than 100 years old in the U.S. and many times older in Asia, where the manipulation of fish stocks is part of traditional agriculture. In the U.S., federal and state agencies have successfully stocked lakes and streams with trout and other game fish for many years. Unfortunately, efforts to stock marine species have by and large not proven successful. However, scientists and technicians using new methods and approaches for studying the various aspects of fish life cycles and behaviors have been able to overcome some of the most daunting obstacles to progress in this area. In particular, in the State of Hawaii, scientists have developed new approaches to fisheries enhancement technology. Home to several of the nation's most productive and effective

marine science research institutions, Hawaii has become an internationally respected pioneer in this emerging technology. Indeed, many foreign countries are now clamoring to gain access to Hawaii technology in the area of stock enhancement. However, the Northeastern United States needs the Hawaii technology as much or more than countries that compete with us for markets. It is therefore the central objective of the present consortium to demonstrate the effectiveness of Hawaii-based enhancement technology in the Atlantic Ocean, using commercially important species.

The project to be undertaken will have three phases. First, the Hawaii technology will be adapted to several Atlantic species, using the scientific methods already utilized in the Pacific area. This phase will concentrate on simulations based on existing technology adapted to existing biological information about selected species. The second phase will involve field testing of simulation outcomes, in a controlled environment. This phase will also investigate environmental factors such as treatment of wastes so that real world applications of enhancement technology will contribute to higher levels of water quality in marine areas. The third phase will involve demonstration of a comprehensive action program for implementation of enhancement technology in the Atlantic environment.

In support of this demonstration project, the Massachusetts Foundation for Excellence in Marine and Polymer Sciences requests \$773,450 for "Atlantic Fish Stock Demonstration." The Massachusetts Foundation will be the designated coordinative agency for the multi-state consortium.

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STATEMENT OF ROLAND ROUSSEAU, CHAIRMAN, U.S. SECTION BUDGET  
COMMITTEE, PACIFIC SALMON COMMISSION

Mr. Chairman, my name is Roland Rousseau and I am an Alternate Commissioner on the U.S.- Canada Pacific Salmon Commission (PSC). The Commission was established under the Pacific Salmon Treaty (Treaty) between the U.S. and Canada. The Treaty was signed in 1985 for the purposes of conserving salmon stocks and controlling salmon interceptions. I am providing this testimony as Chairman of the U.S. Section Budget Committee. I want to provide you with a copy, for the Committee's use and for the record, of the FY 95 budget recommended by the U.S. Section of the Pacific Salmon Commission for Treaty programs. It details budgets for State, Federal and Tribal agencies involved in the treaty.

The states of Washington, Alaska, Oregon and Idaho and the National Marine Fisheries Service (NMFS) are charged with carrying out a major portion of the salmon fishery stock assessment and harvest management actions required under the Treaty. Federal funding for these activities is provided through the Department of Commerce (DOC) on an annual basis. I need to advise you, however, that funds were not provided in the FY 94 DOC budget for programs to adequately address obligations under the Treaty. The current severe conservation crisis of the Pacific Northwest coho and chinook salmon stocks, that form major components in the Treaty arrangements, requires that improved information on these stocks be obtained for use by fishery managers.

The U.S. Section has recommended \$7,638,207 for the Pacific Salmon Treaty Line Item under the Information Collection and Analysis activity. Congress appropriated \$5,587,000 for the PSC in FY 94 and the Administration budget for FY 95 is also \$5,587,000. The increase for new initiatives needed to carry out international PSC obligations and address chinook and coho conservation needs is \$2,051,207.

Mr. Chairman, the signing of the U.S.- Canada Pacific Salmon Treaty in 1985 was an essential step forward for the conservation and enhancement of the truly renewable salmon resource of the Pacific Northwest, Southeast Alaska and Canada. A major goal embodied in the Treaty is the rebuilding of West Coast chinook salmon stocks by 1998. The U.S. and Canadian management entities have developed a coastwide coded wire tagging and tag recovery program for chinook and coho salmon to evaluate the effectiveness of management actions taken under the Treaty. As the chinook rebuilding program has proceeded, needs have been identified in all jurisdictions for additional and improved tagging and refined tag recovery in certain fisheries. Improved enumeration of spawning escapement levels and refinement of escapement goals are also needed. The tagging programs are crucial to the protection of Columbia River chinook salmon stocks listed under the Endangered Species Act.

The \$2,051,207 in recommended additional funds over the FY 94 level would be dedicated to new initiatives. The current depressed state of Pacific Northwest coho and chinook salmon stocks has increased the urgency to obtain better information for fishery management. The majority of the programs in these initiatives are directed toward improving the information for the currently depressed Pacific Northwest coho and chinook salmon during the ocean part of their life cycle. These programs are complimentary to the large commitments to the protection and restoration of chinook and coho habitat in Pacific Northwest rivers and streams that are currently being made in other Pacific Northwest initiatives.

The following is a summary of new initiatives:

1) Coho Stock Conservation and ESA Evaluations (\$1,150,000)

Additional coded wire tagging of indicator stocks is needed to improve information on the distribution of coho harvest in recreational and commercial fisheries including development and verification of Pacific Salmon Commission (PSC) modeling estimates of the coho harvest distribution in southern and northern PSC areas. This information will assist management decisions and coho productivity evaluations by documenting harvest levels of coho stocks. The use of alternative stock separation techniques such as genetic markers will be investigated for applicability and cost effectiveness.

2) Puget Sound Inseason Commercial Catch Retrieval (\$250,000)

The Washington Department of Fisheries (WDF), the Puget Sound Tribes and the bilateral Fraser Panel of the Pacific Salmon Commission (PSC) base their inseason management of commercial fisheries in Puget Sound largely on catch and fishing effort information. It is essential that this information is accurate and provided to fishery managers in a timely manner. In order to achieve this objective, field personnel must be deployed aboard fish buying vessels to sample catches and collect effort data. Without this program, managers have to rely on information received from processors directly and the timeliness and detail of the information will be greatly reduced. This will have a major effect on the ability of the bilateral PSC staff to make sound information based recommendations to the bilateral Fraser River Panel for inseason management actions for Canadian and U.S. fisheries on Fraser River stocks.

3) Pacific Salmon Commission Chinook Salmon Stock Rebuilding and ESA Evaluations (\$300,000)

a) Chinook Escapement Goal Documentation: In coastal Oregon rivers and the Transboundary Rivers of Southeast Alaska and Northern British Columbia, chinook salmon escapement counts are only partial indices of total escapements. These projects will determine how these partial indices can be expanded to total escapement estimates. Reliable escapement estimates will allow managers to increase chinook salmon production through the use of optimum escapement goals.

b) Chinook Indicator Stock Tagging: Certain geographical and timing groups of chinook salmon stocks are poorly represented in current Pacific Salmon Commission indicator stock programs. Additional tagging of indicator stocks is required to correct this deficiency, including the tagging of stocks that are currently listed or under consideration for listing under the Endangered Species Act.

4) Northern Boundary Chum Salmon Rebuilding (\$350,000)

Northern Boundary (Southeast Alaska/Northern British Columbia) chum salmon stocks in Portland Canal are being rebuilt under a cooperative program. Harvest of these stocks is currently shared by U.S. and Canadian fishermen. Development of an inseason management system and a stock monitoring program are needed to provide harvest access to the rebuilt stocks. This information will also be useful in developing joint chum salmon enhancement programs in this area.

Mr. Chairman, in addition to the Pacific Salmon Treaty programs previously discussed, the U.S. and Canada have agreed to joint salmon enhancement projects on the Transboundary Rivers flowing between Canada and Southeast Alaska. Agreements signed in 1989 and 1990 were funded as Congressional add-ons through FY 93. In FY 94, \$400,000 was provided to the State of Alaska for this effort through the National Marine Fisheries Service International Fisheries Commission line item under the Conservation and Management Operations activity. The FY 95 Administration request is \$400,000 for the entire line item. The U.S. Section has recommended \$439,898 for this activity in FY 95, requiring an increase of \$39,898 if the Administration request of \$400,000 is for Transboundary River enhancement. Salmon from this project are beginning to return in significant numbers, and additional funding is required for identification of these enhanced fish in catches so that they can be taken into

account in managing to protect natural stocks. It is also necessary to document the numbers of enhanced fish caught by each country so that sharing objectives can be met.

The U.S. Section of the Pacific Salmon Commission is also concerned about the funding the Department of State receives for Treaty implementation. This funding provides for the United States contribution to the bilateral Pacific Salmon Commission, based in Vancouver, British Columbia, as well as for stipends and travel costs for U.S. Commissioners, panel members and technical committee members while on official duties on behalf of the United States. New bilateral U.S.- Canada agreements expected in the Yukon negotiations and the new initiatives recommended under the PSC will require increased U.S. Section travel and stipend costs and bilateral PSC funding. In FY 94, \$1,684,000 was appropriated for this activity. The FY 95 Department of State Administration request is \$1,800,000. The U.S. Section has recommended \$2,315,250, an increase of \$515,000 over the Administration request.

Finally Mr. Chairman, there is another area included within the U.S. Section Budget Justification Book and this is for programs that are carried out separately from the Pacific Salmon Commission but supported by the Section. Salmon negotiations between the U.S. and Canada on the Yukon River are carried out with staff and research information provided by the Alaska Department of Fish and Game through the NMFS Yukon River Chinook Study line item under the Information Collection and Analysis activity. \$700,000 was appropriated in FY 94 and \$700,000 is proposed in the FY 95 Administration budget. The U.S. Section FY 95 request is \$901,540, an increase of \$201,540. This request includes \$80,540 for a new study to determine if parasite presence in Yukon River chinook and chum salmon can be used to separate stocks. The study would be carried out by the National Marine Fisheries Service's Auke Bay Laboratory.

Mr. Chairman, that concludes my written testimony submitted for consideration by your committee. I want to thank the Committee for the support that it has given us in the past. I am available to answer any questions you or the Committee members may have regarding the U.S. Section of the Pacific Salmon Commission budget.

#### SUMMARY OF DOC PROGRAMS UNDER THE U.S./CANADA PACIFIC SALMON TREATY

##### Pacific Salmon Treaty

<u>FY 94 APPROP.</u>	<u>FY 95 PSC REQ.</u>	<u>Admin. Request</u>	<u>Shortfall From Admin. Request</u>
\$5,587,000	\$7,638,207	\$5,587,000	\$2,051,207

##### Transboundary River Enhancement

<u>FY 94 APPROP.</u>	<u>FY 95 PSC REQ.</u>	<u>Admin. Request</u>	<u>Shortfall From Admin. Request</u>
\$400,000	\$439,898	\$400,000	\$39,898

##### Yukon Negotiations

<u>FY 94 APPROP.</u>	<u>FY 95 PSC REQ.</u>	<u>Admin. Request</u>	<u>Shortfall From Admin. Request</u>
\$700,000	\$901,540	\$700,000	\$201,540

#### SUMMARY OF DOS PROGRAMS UNDER THE U.S./CANADA PACIFIC SALMON TREATY

<u>FY 94 APPROP.</u>	<u>FY 95 PSC REQ.</u>	<u>Admin. Request</u>	<u>Shortfall from Admin. Request</u>
\$1,684,000	\$2,315,000	\$1,800,000	\$515,000

## STATEMENT OF J.B. PENN, SENIOR VICE PRESIDENT, SPARKS COMPANIES, INC.

Mr. Chairman, I am J.B. Penn, Senior Vice President of Sparks Companies, Inc. (SCI), an agricultural information and consulting company. We have been asked to conduct an analysis of the economic impacts of El Niño on the agricultural and related sectors of the food system for the United States and the world. This statement discusses our preliminary work and provides some notion of its direction along with some preliminary estimates. This work, conducted by SCI analysts, was undertaken at the request of Columbia University and the Scripps Oceanographic Institute.

### World Food and Agriculture Systems: What's At Risk?

The world's agricultural systems have become highly sophisticated and productive in recent years. Enormous investments in the development and application of new technologies have advanced production efficiency for crops, livestock and fiber products. Today's farms are increasingly complex food and fiber factories that assemble inputs and supply increasingly demanding markets around the globe.

The growth and development of our modern agricultural systems are no accident. Much of the world remembers vividly the famines of not so long ago, periods when whole cultures were threatened by food supply failures. While there are still countries with inadequate food supplies, political rather than technical problems are the reason. Today's 5.6 billion people have access to more and higher quality agricultural products than ever before in history.

The production system that provides the world's food and fiber is almost unimaginable in its size and scope. Nearly every imaginable location and micro-climate is cultivated to one degree or another and results in about 2.5 billion tons of grains, oilseeds, fibers, meat, milk, eggs and other products, an amount that would be even greater if tubers, groundnuts, forages and other, more extensive crops, were included. Considering only commercial production of major food, feed, oilseed and cotton crops, the annual value of world production surpasses \$250 billion at current prices (greater than the total GDP of all but 10 countries). When the value of livestock production is included, this amount more than doubles. And, if the total GDP from upstream and downstream activities necessary for the production and marketing of food and fiber products were included, the economic role of world agricultural systems likely is several times greater than the value of the raw commodities (as will be illustrated for the United States).

In the modern world agricultural system, most products are mobile and trade helps insulate against bad crops around the globe. However, for the world's major crops, weather impacts can and do change production as much as 1% in any year, with much greater variation in some regions. And, in spite of our current adequate production capacity, the stocks available to meet needs in the event of crop failures due to seasonal climate change are small: 2.4 months for grains; 1.5 months for oilseeds; and 5.4 months for cotton. As world population grows (by 94 million people annually--roughly the addition of another country the size of the United States every three years), the difficulty of insulating huge numbers of people, especially those in the fastest growing developing countries, from crop failure and food shortages has become increasingly difficult.

### Agriculture in the U.S. Economy

The world depends enormously on the United States for much of the food that moves in commercial trade channels. And, nowhere are the impacts of weather more evident from year to year than in the U.S. agriculture sector and food system. The U.S. food system is large, modern and a key component of our national economy. It adds more than \$820 billion to our GDP (nearly 16%, 1989 basis) and employs 21.1 million people (nearly 17% of the labor force). While the role of farm production is central to the system, the upstream and downstream system components are much larger.

The farming sector itself employs about 3% of the labor force and accounts for 1.4% of the GDP, statistics that only begin to indicate the importance of the food and fiber system in the U.S. economy. Farm production accounts for \$71.4 billion of GDP (1989), but is central in a system that contributes more than \$820 billion to the U.S. economy, one-sixth of the total. Behind the farm gate, upstream industries that provide farm inputs (fuel, machinery, pesticides, fertilizer, financial services and many others) amount for more than 5% of U.S. economic activity. After the farm gate, the downstream industries of processing, handling and distributing our food and fiber products contribute another 9.2% of the total. The economic contribution of the food and fiber system still is centered around the value of foods produced, although industrial uses of agricultural products are growing rapidly. U.S. consumers spent \$570.3 billion on food in 1991, including \$312.7 billion

for foods for home use and \$257.7 billion worth of meals and snacks. The farm value of these foods amounted to about 22% of the total marketing bill in 1991.

Because the system is so vitally interlinked, changes that affect its productivity such as shifts in climate patterns and crop yields have enormous impacts throughout the entire economy. The following sections illustrate this interdependence, examining in detail the impacts of the U.S. drought of 1988.

#### Climate and Agriculture

Americans have become so inured to the role of science in our everyday lives that last year's floods were shocking events to many, a stark reminder that we depend on seasonal climate stability not only for comfort but for our well being. A good season means abundance for millions, while drought and flood bring shortages, and even starvation for many of the world's people. Seasons are so variable, and the forces that change its patterns so complex, farmers, for example, have no choice but to plan for a "normal" season, while simultaneously protecting against seasonal change. The inevitable result is that seasonal extremes still cause enormous losses not only for producers, but also for consumers, governments and many others throughout the food system worldwide.

No one today believes that the world's vast food and fiber system can be insulated from such extremes, of course, but it is increasingly clear that it can be better informed. And, it is certain that a better informed system that can anticipate these extremes can avoid losses and reduce the costs now required to anticipate and limit damage.

Predictions of patterns of seasonal extremes relative to expected seasonal norms can be made by observing detailed characteristics of the atmosphere and the oceans, by assembling these into patterns that tend to be followed over the seasons and around the world by location and season, and by estimating how future patterns will unfold over the coming two to three years based on changes seen in the beginning stages. It is well known that certain shifts in the atmospheric and ocean currents in the tropical Pacific affect weather worldwide, that these abnormalities themselves follow patterns that have measurable impacts on far-away locations such as the U.S. Corn Belt, and many others. For example, fairly frequent but abnormal atmospheric and ocean current shifts in the southeastern Pacific Ocean along the equator disrupt normal pressure systems and switch surface winds from easterly to westerly directions. These abnormal events, widely known as "El Niño", have been observed 28 times since 1893 and dramatically change world weather for two to three years when they occur. While no two El Niños are exactly alike, the El Niño of 1986/87 which spawned the severe U.S. drought of 1988 was fairly typical and will be used to illustrate the extent and impact of abnormal El Niño patterns on U.S. agriculture.

#### Drought Impacts: 1988 Example

While causes of seasonal change are always difficult to pinpoint with precision, it is highly likely that the abnormal 1986/87 El Niño led to the northern hemisphere drought of 1988, the worst since 1936 for many parts of the continental United States. The drought severely damaged crops, with impacts reverberating throughout the economy. For example:

- Spring planted crops were damaged severely throughout the Midwest. Corn yields were reduced 29% from year earlier levels, soybeans 20%, and spring wheat 42%. Corn carryover stocks were high at the time of the drought (40% of annual needs), but even so, corn prices rose nearly one-third in 1988 to ration the limited supplies. In spite of subsequent higher plantings and normal yields in 1989, demand by other drought-damaged producers stimulated exports. Stocks declined and continued at unusually low levels through the following two years.
- The immediate impact of the drought fell on the farm sector, and there its impacts are uneven. Those farmers that had large stocks from the previous year profited from higher prices, while other farmers were able to protect themselves by using irrigation systems. However, for many farmers without inventories and without irrigation systems, drought losses were substantial. In 1988 there were about 550,000 commercial U.S. farmers (sales in excess of \$40,000). Without USDA drought relief, an estimated 20,000 to 30,000 of those had drought losses great enough to threaten their survival. With the benefits of the Disaster Assistance Act of 1988, that core problem group likely declined to 10,000 to 15,000 commercial farmers.
- For livestock farmers, higher crop prices meant higher feed prices. U.S. range and pasture conditions were the worst since records were started in 1921. Higher feed costs slowed the rate of increase in

poultry production, raised the number of gilts and sows slaughtered in the second half of 1988, and boosted nonfed beef slaughter through the sale of potential replacement heifers and cows.

- Federal direct payments for 1988 crops (FY 1989 and FY 1990) were reduced by the commodity price increases caused by the drought to \$10.5 billion in FY 1989 and \$6.5 billion in FY 1990. However, the CCC disaster payments totaled \$4.0 billion in FY 1989-90, plus an additional \$1.5 billion in generic certificates under the Disaster Assistance Act of 1989.
- In the years following 1988, the drought-raised prices stimulated over-production at substantial cost to the sector and, eventually, to the government. To produce the additional commodities required to rebuild stocks during the late 1980s required additional credit, fertilizer, fuel, pesticides, machinery and other inputs. However, as stocks were rebuilt and overseas demand returned to normal, the excess capacity developed in response to the price increases during 1988-90 created commodity surpluses and more than \$2.5 billion in CCC costs in FY 1990 to deal with the resulting surpluses.
- Most farmers had already purchased their production inputs for the 1988 crop at the time the drought became widespread. However, farm machinery sales of harvesting and drying equipment declined during the last one-half of the year, and energy consumption also declined as drought damaged crops were abandoned. Farm input suppliers in drought hit areas lost sales significantly from earlier years.
- Vegetable processors, primarily in the Lake States were severely affected. Supplies of green peas, sweet corn and many other vegetables were short, and some plants were closed.
- The drought-induced increases in food grain and feed prices reduced production and raised prices of many food products, beginning with cereals and including meats, dairy products and most other foods for a two to four year period. Not only were consumers forced to pay more for smaller amounts of food, but government feeding programs became more costly, as well. Initial observations of relative increases in prices and expenditures for foods compared with rates in the balance of the economy imply drought impacts of 1% to 2% during at least 1989 and 1990, changes that imply increases of \$5 to \$10 billion in consumer food expenditures (including increases of between \$0.27 billion to \$0.52 billion in child nutrition and other food donation program costs). They also imply increases in other government feeding program costs of perhaps \$0.17 billion to \$0.32 billion (Food Stamps, WIC, Direct Food Distribution Programs).
- Reduced water levels on the internal waterways system disrupted transportation flow (especially to export markets) early in the spring and summer. Alternative transportation, especially railroads, could not handle the large volume of displaced barge cargo. Barge rates escalated as operators were forced to reduce the size of their tows and reduce load sizes. Difficult navigation conditions increased travel time and cost, until shrinking supplies later in the year reduced export volumes and the demand for barge services. The U.S. Army Corps of Engineers sharply curtailed the flow of the Missouri River in mid-November to permit upstream reservoirs to be refilled, further increasing transportation costs.
- Many rural communities experienced substantial reductions in business activity, with the impact depending on the importance of agriculture to the area. Considering selected rural areas of the United States, regional economic losses from the 1988 drought were estimated to amount to almost 22% in North Dakota, 13% in northeast Montana, 3% for Wisconsin and Illinois and less than 1% in northwest Ohio. Federal drought assistance compensates for some of the losses. After federal compensation, losses ranged from 12% in North Dakota to 0.5% in Ohio. In most cases, the federal compensation covered 20% to 45% of the actual losses. For the average of the communities USDA examined, the loss amounted to 2.34% of gross economic activity, perhaps \$10 billion to \$15 billion for the non-farm, downstream agribusiness sector.

#### Can Better Seasonal Climate Predictions Help Reduce Drought Costs?

Preliminary indications suggest that better information about seasonal variability can reduce costs for the world food system in several important ways. By reviewing the kinds of impacts observed during the drought of 1988 and recognizing that such events are relatively common, with a frequency of roughly every four years, the importance of national investments to alleviate these impacts becomes clear. Data do not exist to permit highly specific estimates of these effects, but studies by USDA and others and examination of economic indicators for the sector for the period suggest that the 1988 drought cost the economy between \$28 billion and \$44 billion, with most of the impacts downstream from the farm sector, but on many farmers and input suppliers, as well.

Such costs are not a single occurrence but tend to be observed perhaps every four years, implying an average decade cost of about \$110 billion (2.5 events), \$11 billion annually. Regardless of the lack of precision of such estimates, the cost of drought damage is enormous and widely distributed across the food and fiber system. It is equally clear that the U.S. agricultural system understands the likely incidence of these costs and takes extensive steps to try to guard against extreme seasonal events.

Perhaps the greatest contribution that could come from better information about global climate would be forecasts with sufficient precision to permit markets to more specifically evaluate and reflect such expected conditions in futures prices. Commodity traders now are among the most avid consumers of weather information, and a few buy and sell heavily on the basis of their reading of long-term forecasts. However, current forecasts are insufficiently specific or precise to permit most traders who use markets to shift risks to trade distant futures (or derivatives) to manage their seasonal risks, or for the markets to confidently reflect impacts of the next abnormal El Niño, for example. And, while it is unrealistic to expect that forecasts will be sufficiently specific that they can be converted precisely into yield damage or production levels, even general (but more reliable) information about the 1995, 1996 and 1997 growing conditions would adjust prices significantly. Adjustments throughout the system likely would be dramatic:

- **Stocks.** Producers, governments, processors, consumers and others throughout the system would be in a much better position to manage their price risk and stocks. The result would be higher stocks (and better prices as stocks are built) in advance of droughts, less severe price shocks during droughts and much more orderly domestic and export use of U.S. commodities.
- **Production.** Not only would more reliable forward prices guide more efficient stocks policies, it would increase production efficiency as well. And, in addition to scheduling production to better anticipate need, producers would be in a better position to shift among crops (and among varieties, as well) to guard against late or short seasons by choosing better adapted crops, take advantage of wet or dry growing seasons, and make other adjustments to apply genetic and management technology to match crops with better information about conditions.
- **Irrigation, Other Crop Protection Investments.** Armed with more reliable seasonal estimates, producers would be in a much better position to invest in irrigation facilities and governments and other reservoir managers would be better able to manage water flows and availability as needed. Input manufacturers would be better able to estimate requirements for fertilizer, chemicals and machinery needed. This benefit would extend throughout the system, and would benefit especially processors and transportation suppliers for whom production scheduling is essential to efficient production.
- **Governments/Consumers.** Communities and government programs were affected as much by the drought of 1988 as any other sector, and government efforts to reduce disaster programs likely will continue to be stymied as long as producers have no effective way of anticipating the incidence or extent of future bad weather.

Far more important, a system with prices reflecting more reliable weather expectations likely would have far fewer and smaller price shocks and much more accurate adjustment to real shifts in longer-term supply or demand conditions. The result likely would be much more stable consumer prices, but also somewhat lower prices to the extent that costs of insuring against weather damage are reduced.

#### Amount of Potential Savings

It is difficult even to speculate at this point in the study regarding the potential for savings from better seasonal to interannual forecasts. To an important degree, savings depend on the degree of improvement, both in reliability and in length of the forecast. Nevertheless, the U.S. agricultural system has enormous flexibility to adjust to changing conditions and given better information, likely would make enormous shifts to avoid loss. With information that even moderately improves the market's capacity to evaluate future crop and livestock risks, the system likely would be in a position to far more accurately judge needs for a broad range of equipment and practices and to reduce costs and variability as a result. Thus, the current working assumption regarding the effectiveness of better estimates is that they would reduce extreme seasonal damage costs as much as 25%, perhaps as much as \$2.7 billion annually.

While such a savings seems small relative to the total size of our \$821 billion food/fiber system, it likely would mean very significant impacts in areas that are at highest risk. As a result, these estimates likely understate the real potential for savings from better seasonal to interannual estimates, especially for sectors beyond agriculture.

**STATEMENT OF MICHAEL CROW, VICE PROVOST, COLUMBIA  
UNIVERSITY**

Mr. Chairman and Members of the Subcommittee, I am Michael Crow, Vice Provost of Columbia University in the City of New York. I deeply appreciate this opportunity to submit this statement to you.

The purpose of this statement is to request your favorable consideration of two matters with respect to the Department of Commerce. First, we fully support the President's FY1995 budget request of \$84 million for NOAA's Office of Global Programs (OGP). Second, we urge continuation of, and expanded funding for, the Green Building Demonstration program under the supervision of the National Institute of Standards and Technology (NIST).

Office of Global Programs

OGP's extramural research program has produced significant contributions to our understanding of how climate changes. Efforts here have helped to illuminate the natural variability of earth's climate, ranging from current seasonal and interannual to decadal phenomenon such as the El Nino/Southern Oscillation (ENSO), to past massive global shifts from ice ages to warm periods and back again to ice dominance.

Recent progress in forecasting ENSO events up to a year in advance will contribute to mitigation efforts to avoid the most destructive effects of the massive tropical climate shifts. The Administration has proposed an expanded international program to expand university research activities to develop and refine forecasts of ENSO and related events through an International Research Institute (IRI) for seasonal to interannual climate prediction. OGP has also promoted investigations of decade or longer time scale climate changes, which will help understand such problems as long-term drought.

The \$84 million request for investigations such as these will enable significant progress to be made in understanding climate change, thus helping equip mankind to minimize the potential destructive forces that result from changes in our global climate system.

Green Building Demonstration Program

We were one of three non-government institutions to receive a grant from NIST to undertake the initial planning for Green Building Demonstration facilities. This grant has allowed us to complete the first phase (Master Plan, Conceptual Design, and Green Building Guidelines) for an expanded Geochemistry research facility at the Lamont-Doherty Earth Observatory, a research institute of Columbia University. We now are ready in FY1994 to move into the next

stage, which is development of detailed architectural and engineering drawings and construction bid evaluation.

In this first phase, we have been able to map out a very exciting approach to rehabilitation of the existing building and construction of an integrated new wing that captures maximum positive effects from individual technologies and concepts for energy efficiency and environmental sensitivity in the design, construction, habitation and future re-use of the buildings. Further, we were able to carry the Green Building conceptual approach into the technical laboratory functions, which brought even greater construction and building operational savings. In fact, it appears that we will be able to demonstrate a building that: a) uses less than half the energy of a code-compliant structure; b) meets stringent high standards for indoor air quality, lighting supply and temperature/humidity control; and, c) can be constructed at a cost no greater than other high technology function buildings which have not been done with a Green Building approach.

When we began to consider this project, we wanted to use the best available energy efficient and environmentally gentle technologies that have been developed with the assistance of NIST, DOE and EPA.

What we discovered is that the very best technologies do not perform in an optimum way unless all of the technologies, the building structure, and technical and habitation functions are fully integrated and optimized as a whole from the very beginning of the project. It is this integrated approach which is being demonstrated, including how such an approach will bring maximum value from the individual technologies.

Our building has been designed to achieve the above results, and to be a national demonstration of Green Building technology. We have built into our plans commissioning and monitoring protocols for how the building will perform through time, and intend to make this information available both live on site, and through wide distribution of building performance results. An auditorium has been designed for public meetings of professional and lay audiences to learn about and spread implementation of this most important advance in construction concept. We look forward to working with NIST in codifying such an approach and giving the widest possible dissemination of the beneficial results.

Thank you again for your permitting me to submit this testimony, and for your favorable action in supporting the \$84 million OGP budget line, and for advancing NIST's Green Building Demonstration Program.

**STATEMENT OF JOHN PRESCOTT, EXECUTIVE DIRECTOR, NEW  
ENGLAND AQUARIUM**

Mr. Chairman and Members of the Subcommittee, I am John Prescott, Executive Director of the New England Aquarium, located in Boston, Massachusetts. I would like to thank the committee for this opportunity to submit this statement.

I am here to request continued support for two Department of Commerce programs within the jurisdiction of the Committee:

- (1) Within the national Oceanic and Atmospheric Administration (NOAA), continue funding for the Atlantic Bluefin Tuna Research; and
- (2) Within the National Institute of Standards and Technology (NIST), continue funding for the Green Building Technology Research and Development.

A primary mission of the New England Aquarium is conservation. Both of these programs involve conservation, although in different ways:

- The Atlantic Bluefin Tuna Program is concerned with conservation of living marine resources;
- The Green Building Program involves conservation of energy resources of our environment.

**Atlantic Bluefin Tuna**

We are requesting level funding of \$300,000 for research for Bluefin Tuna for Fiscal Year 1995.

Atlantic Bluefin Tuna once considered a valueless fish in the world today commands current wholesale values in excess of \$70.00 per pound. This value has driven the fishery to the brink of collapse, and the National Marine Fisheries Service estimates that the current population is at 10 percent of its pre-1977 level. Several environmental organizations consider the species threatened and are seeking listing as threatened under CITES.

The New England Aquarium Bluefin Tuna research program has four principal objectives:

- Develop techniques for the live capture and transportation of Bluefin tuna;
- Develop the husbandry protocols necessary for the growth and nutritional requirements of the species;
- Initiate biological studies on the biology and physiology and reproduction of the species and;
- Examine the commercial potential for "ranching" tuna to add value to the catch.

Since the inception of the project, sub-adult Bluefin tuna have been caught and successfully transported to the New England Aquarium facility in Boston. Transport times have varied from 1.5 to 12.75 hours and no mortalities occurred during transportation. One specimen has lived more than 344 days. The tuna have exhibited growth rates that doubled their weight in 200 days and a single specimen grew 25 cm (10 inches) and gained 22 kilograms (44 pounds). While the current diet clearly provides for growth its long term adequacy is unproven. Several specimens have developed pathologies that may be associated with nutritional deficiencies.

To date the program results reveal that it is possible to catch, transport and maintain Bluefin tuna. That their growth rate exceeds previous estimates. Initial market research indicates that the landed value of Bluefin tuna in 1993 ranged from a low of \$7.00 per pound to a high of \$25.00 per pound to fisherman. Thus the potential of short term holding live fish may triple the value of the catch.

In addition to the capture, transport, maintenance and nutrition studies, data is being collected from the fisheries on reproductive status. Separate grants have enabled the New England Aquarium to initiate a study to artificially fertilize tuna egg and grow larval tuna. The second grant enabled us to initiate and test a new method to estimate the population of tuna. We hope to replicate this survey during the summer of 1994 using the current fund allocated in 1993.

We are currently seeking continued support for this project. During the next phase we anticipate a pilot project to catch and maintain tuna to test market the concept of adding value to the catch, better understand the pathologies expressed by tuna held for more than 100 days and further quantify growth rates, nutritional needs and reproductive physiology.

#### Green Building Technology Research and Development

The New England Aquarium was one of three entities which received a grant from Fiscal Year 1993 Appropriations for the study of Green Building Technology. "Green Building" in this context refers to the design and construction, including materials, of structures incorporating environmental sensitivities and employing energy conservation efficiencies. With regard to this initiative, there are provisions within the pending NIST authorization bill that would formally establish a "Green Building Technology Demonstration Program" within NIST. The timing for an environmentally grounded approach to construction is appropriate. Parallel development of components of this holistic approach to building have been conducted for years in the old National Bureau of Standards programs of the Center for Fire Research and the Center for Building Technology. The umbrella of a "green building" title brings additional, similarly directed fields of research and opportunities of energy efficiency applications to this broad field of applied research and development. The New England Aquarium is in the process of redesigning and rebuilding upon the site of our existing structure, and we plan to employ green building technology concepts, design and materials through this process.

This initiative has caught the attention of many important components of the U.S. construction industry. The American Institute of Architects (AIA) has undertaken a major study of this nature in setting standards for future building code revisions throughout the United States. There has emerged from private industry a "Green Building Council", which includes organizations and energy related corporate concerns. This "Green Building Council" has helped bring together in purpose the elements of an industry whose components have sometimes been at odds with one another over approaches to solving problems of technique, materials and design.

Most importantly, NIST has taken an active role and interest in Green Building Technology. In other testimony submitted to the Subcommittee for its consideration, you will be provided more detail on NIST's Green Building Symposium held earlier this year. NIST has provided the leadership we needed to bridge the gap between (1) designers; (2) manufacturers; (3) environmentalists; and (4) user groups. NIST, however, needs more policy guidance and resources to proceed further with efforts that maintain the U.S. Government's leadership role in this emerging field of new technology.

I recently attended a meeting with DOC and NIST policy officials and those from the Green Building Council, AIA and other institutions to provide a status report and briefing on where the Green Building initiative stands. The meeting was a highly stimulating and productive exchange of ideas and information. We found NIST and DOC officials to be very supportive of the goals of our respective organizations, although they felt that they were unable to provide sufficient resources toward the effort to carry the program any further.

I believe the resources to continue to carry out this program are available in FY 1994 and can be easily identified within the amount the Committee recommends for FY 1995 activities. The large increase requested for NIST in FY 1995 is vague and lacks clear intent in some areas, particularly in the application of new technologies to solving problems in non-traditional ways to meet more stringent environmental and energy criteria.

I represent but one institution that requests the Subcommittee to continue the Green Building Technology program within NIST in both Fiscal Year 1994 (with existing funds) and Fiscal Year 1995 within the level of the President's Budget Request. This Subcommittee will be receiving testimony from other sectors of the industry and academia to support NIST's Green Building Program. We are not seeking earmarks, nor increases above the President's budget. We request that the Subcommittee provide the following policy guidance in the report that accompanies the FY 1995 Appropriations Bill for the Department of Commerce:

- Continue the Green Building Program in FY 1994 with existing unobligated funds;
- Continue in FY 1995 the Green Building Initiative, in conjunction with the Building Technology and Fire Research and advanced technology programs at a level of \$20 million;
- Develop the FY 1995 program in consultation with EPA; and
- Develop the FY 1995 program so that there are internal NIST components; extramural demonstration components of a competitively awarded nature; and industry/council support components.

Thank you for this opportunity to submit this information to you on this important matter.

#### STATEMENT OF R. MAX PETERSON, EXECUTIVE VICE PRESIDENT, INTERNATIONAL ASSOCIATION OF FISH AND WILDLIFE AGENCIES

The International Association of Fish and Wildlife Agencies, founded in 1902, is a quasi-governmental organization of public agencies charged with the protection and management of North America's fish and wildlife resources. The Association's governmental members include the fish and wildlife agencies of the states, provinces, and federal governments of the U.S., Canada, and Mexico. All 50 states are members. The Association has been a key organization in promoting sound resource management and strengthening federal, state, and private cooperation in protecting and managing fish and wildlife and their habitats in the public interest. I appreciate the opportunity to share our perspectives with you today.

In these times of fiscal restraint, the Association recognizes and appreciates the modest increases to some of the natural resource agencies' budgets. Accordingly, we have made thoughtful deliberations over our recommendations and have been careful to support only prudent and modest increases where it is necessary.

#### NATIONAL MARINE FISHERIES SERVICE (NMFS)

The Association is generally very pleased to see the Administration's proposed increases in funding to address the critical needs of the nation's marine fishery resources. The Administration's funding request, as reflected by NOAA and the Department of Commerce's support for the FY 1995 NMFS budget request, demonstrates, at long last, a more realistic Executive Branch understanding of what is needed to better meet the nation's responsibilities to marine fishery resources.

As in previous years, it is the Association's position that NMFS' top priority should be marine resource conservation; specifically, research, data collection and management of marine fishery resources and their habitats. According to the 1992 Report on the Status of U.S. Living Marine Resources (Department of Commerce), for those marine fish stocks where status is known, 46 percent are overutilized and another 37 percent are fully utilized. Thirty-four percent of marine stocks do not even have sufficient information gathered to evaluate their status. Many fish stocks are continuing to decline. Bycatch mortalities seriously cripple use of a number of stocks which are decimated by these non-targeted fisheries. For example, an estimated 10 billion juvenile finfish are destroyed each year in the Gulf shrimp fisheries. Unfortunately, the FY 1995 NMFS budget request cuts funding for bycatch evaluation by \$700,000.

While the Association is very pleased to see the Administration's proposal for an overall increase in funding for the NMFS, it is disappointed that such a minuscule portion of the recommended increase is targeted for state assistance. It is the Association's continued position that the NMFS can most effectively conduct many of its resource management programs through enhanced partnerships with the states. The Association maintains that improving the ability of federal and state marine resource managers to act in concert will substantially enhance the overall management of the nation's living marine resources. Therefore, the Congress should increase funding for the interjurisdictional fisheries grants and provide initial funds for implementation of the Atlantic Cooperative Fisheries Management Act as detailed below.

The Association recommends that the Interjurisdictional Fisheries Act be fully funded at the \$5.6 million level as authorized by Congress (\$5 million for cooperative state programs and \$600,000 for the three Interstate Marine Fisheries Commissions). The FY 1994 appropriation of \$3.451 million was not adequate to support research and management on those interjurisdictional species under fisheries management plans. State and interstate marine fisheries projects funded through this program provide needed interjurisdictional fisheries information and catch statistics to the Interstate Commissions and Regional Councils. Congress recognized in the Interjurisdictional Fisheries Act that effective conservation of marine fisheries requires a state-federal partnership. Failure to provide adequate funding jeopardizes the abilities of the states, the councils and the commissions to effectively develop, implement and monitor regional fishery management plans and this would exacerbate the depleted conditions of many coastal and ocean interjurisdictional resources.

The Association recommends that the new Atlantic Coastal Fisheries Cooperative Management Act be fully funded at \$5 million. This bill was recently enacted, after many of the Administration's budget proposals had been completed. It is landmark legislation that mandates a cooperative federal-state program to provide critical conservation for Atlantic coastal fisheries. The NMFS will work cooperatively with the United States Fish and Wildlife Service to assist the states in carrying out the provisions of the new law. Since the law places substantial new responsibilities on the states, it has been recognized that additional financial resources will be necessary if these valuable marine fisheries are to be effectively managed. It is therefore critical that the funding authorized by the recently enacted legislation be appropriated by Congress.

Grants to states through the Anadromous Fish Conservation Act should be increased to the full authorized level of \$5.5 million through an FY 1995 appropriation of \$5 million for the Anadromous Fish Conservation Act and an additional \$500,000 for funding Section 7 Striped Bass Studies on the Atlantic Coast. The Administration's request for \$2.36 million for FY 1995 will maintain the program at current inadequate levels. Full appropriation as authorized by Congress at \$5.5 million is critical to continue the monitoring and research on valuable species such as salmon, striped bass, sturgeon, American shad, and river herring. This program has traditionally funded activities that cannot be supported through other federal and state funds and the fisheries management community has been unable to adequately address the needs of most anadromous fish stocks. For example, shortnose sturgeon are endangered, Gulf sturgeon are threatened and states have closed fisheries due to the collapse of Atlantic sturgeon stocks. Shad and herring stocks are suffering declines in the South Atlantic and Chesapeake regions and the dire conditions of many stocks of Pacific salmon on the West Coast are well known. It is

impossible for the states alone to fully manage these shared migratory stocks. Cooperative state and federal conservation and management efforts are basic to restoration and enhancement of these species.

Funding of Section 7 striped bass studies is essential to the continued monitoring and restoration of the Atlantic Coast striped bass stocks. This is a prime example of successful federal-state partnership which could be jeopardized by a lack of continued federal support.

The Association recommends funding the operations of the Regional Fishery Management Councils at \$10.0 million. Over the past decade the need for responsible action by the Regional Councils has expanded, but funding for Council operations has not kept pace. Councils have not even been funded to carry out new responsibilities given to them when changes were made to the Magnuson Act. In many areas fishing pressures have increased, thus requiring greater management attention from the Councils. Public involvement in the management process is essential if the overall public interest is to be served, and this places additional demands for funding on the Regional Councils. Fishery management plans now in effect must be carefully monitored and updated to provide essential conservation of these fish stocks. The Councils must respond with dynamic planning and monitoring as envisioned in the Magnuson Act if the nation's valuable marine fisheries is to be restored and maintained.

The Association supports the funding request of \$2.3 million for research and management of Atlantic highly migratory species. The 1990 amendments to the Magnuson FCMA transferred responsibilities from the Regional Fishery Management Councils to the Secretary of Commerce for management of highly migratory species such as billfish, pelagic sharks and tunas. However, no funds have yet been provided by Congress for NMFS to carry out these added responsibilities. The wide-ranging migrations of these stocks over the oceans make them subject to many international fisheries. The fisheries management community has little understanding of stock dynamics and management requirements. Thus, the additional funding for research and management planning is essential to carry out Congressional intent.

The Association recommends that the Recreational Fishery Harvest Monitoring line item be increased to \$4.0 million. A major portion of these funds should be spent on harvest surveys on the Pacific Coast. This increase should be used to strengthen the federal-state partnership of the RECFIN program. These studies, as well as the MRFSS, provide essential information needed by the Councils and Commissions to prepare, monitor and amend management plans.

The Association strongly supports the Administration's new initiative to increase funding for commercial fisheries statistics programs. Although new and needed funding has been provided for recreational fisheries statistics, commercial fisheries statistics programs have been allowed to slide down. This is totally out of sync with what is going on in fisheries management, where conservation programs to address resources under stress require adequate fisheries data. Many of the activities that have been hurt are the cooperative programs with the states that provide so much of the necessary data. Congress should fully fund the Administration's requested increase.

The NMFS budget request seeks to transfer funding responsibility for the Columbia River hatcheries (Mitchell Act) from the NMFS to the Bonneville Power Authority (BPA). Accordingly, a cut of \$10.3 million is proposed by the agency. The Association supports continued unimpeded operation of these important hatcheries and an appropriation of \$10.3 million to allow for their operation in the event the needed funding is not obtained from BPA. In addition to the \$10.3 million, the agency has requested a related cut of \$3.5 million from the hatchery maintenance and construction account. The Association requests continuation of this \$3.5 million item to allow continued operation of the Columbia River hatcheries.

The Association recommends a moderate expansion of the SEAMAP and MAREFIN programs. SEAMAP should be increased to \$2 million and MAREFIN should be increased to \$4.5 million. These programs address critical needs in the Southeast and Gulf for cooperative fishery independent studies and activities to address specific high priority problems. MAREFIN

has been a major source of funds for the Congressionally mandated shrimp bycatch studies. SEAMAP is building a long-term data base necessary for the management of heavily exploited species and for the identification and protection of critical habitats. MARFIN and SEAMAP are valuable state-federal partnership programs. Increased funding in these areas will allow these programs to continue to address high priority needs.

The Association recommends an appropriation of \$10 million for the IT-95 computer system program. An appropriation at this level would allow \$4.5 million for the agency to complete the hardware procurement and an additional \$5.5 million for necessary cost of system implementation.

The Association is pleased to see that the FY 1995 budget includes funding for oyster disease research as well as the Atlantic Salmon program and for data collection and analysis related to U.S. obligations under the Pacific salmon treaty. The Association opposes the proposed cut of \$400,000 appropriated by Congress last year to support critical funding needs of the Great Lakes Fisheries Commission's sea lamprey control program.

The Association recommends a substantial increase to continue the NOAA fleet modernization program. The Administration budget request, in effect, abandons this program for FY 1995. The Association is concerned that NMFS is underfunded to conduct research at sea. Specific vessel needs are clearly presented in the NOAA strategic plan.

The Association is opposed to the Administration's proposal to reduce funding for facility maintenance. NOAA admits that many of its facilities suffer from disrepair and long-deferred maintenance, and some of the worst problems are located in its fisheries facilities. Many of the problem areas involve health and safety that NOAA will have to take care of in any event, and unless the necessary funding is provided this will have to be made up from other programs in the budget. Congress should restore full funding for facility and maintenance in NOAA construction account.

The Association supports an appropriation of \$2.3 million for marine mammal/fishery interaction studies. The relationship between marine mammals and the nation's fisheries is the subject of intense policy consideration and information is critical to resolution of these conflicts.

The Association strongly supports the Administration's request for \$19.6 million in increased funding for protected species. A variety of endangered species controversies have placed significant new demands for analysis, planning and recovery on the NMFS and coastal states. Thus, increased funding for programs dealing with protected, threatened and endangered species is critical. However, the Congress should designate a minimum of \$500,000 of the increase for grants to states under Section 6 of the Endangered Species Act. These grants would make possible the joint state-federal implementation of recovery plans so that species can be recovered and eventually delisted.

The Association supports the Administration's proposed increase in the NMFS habitat protection program of \$2.4 million. The Association's position is that aggressive action is needed to protect marine habitat in order to achieve the full benefits of the nation's marine fisheries.

The Association applauds the Administration for requesting the Saltonstall-Kennedy (S-K) grants program to address high priority research and development needs and to generate industry matching monies. These funds are derived from import duties on fishery products, and for over 35 years have been used, at least in part, to support U.S. fisheries. However, the Association requests funding of the FY 1994 level of \$7.144 million. Less than 15 percent of S-K monies are used for grants and more is needed and justified. The Association strongly recommends that the grant program focus on bycatch studies and on recovery of the depleted stocks.

The Association is pleased to see a significant increase in the funding request for critical law enforcement activities and supports the agency's request. However, the Association believes

NMFS could make its law enforcement activities more efficient by working with state law enforcement agencies and therefore recommends that a portion of this increase be used to enhance the development of cooperative enforcement activities with the states.

In addition to the NMFS budget, the Association offers the following comments on several areas within the NOAA budget. First, the Association recognizes the importance of the Cooperative Geodetic Surveys in South Carolina for natural resources management and urges Congress to restore the \$600,000 that the Administration proposes to cut from the Coast and Geodetic Survey budget. Second, in the National Sea Grant College Program budget, the Administration proposes to eliminate \$2.8 million designated by Congress for control and elimination of the zebra mussel problem. The Association recommends that Congress restore this \$2.8 million, establish it within the program base, and direct it to be used for research in the control of aquatic nuisance species, including the zebra mussel. Third, the Association supports an increase of \$5.0 million to strengthen the Sea Grant program's efforts in the emerging area of marine biotechnology. Finally, the Administration proposes to eliminate the entire budget, \$3.0 million, for the Regional Climate Centers. These six regional centers provide a wide array of data, products and services for a diverse array of users across the country. Several of these centers provide information important in addressing the relationship between climatological trends and effects on coastal fisheries and habitats. The Association recommends restoration of this \$3.0 million and continuation of this critical program.

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STATEMENT OF THE ALASKA WILDLIFE ALLIANCE, AMERICAN HUMANE ASSOCIATION, AMERICAN SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, ANIMAL PROTECTION INSTITUTE, CETACEAN SOCIETY INTERNATIONAL, DEFENDERS OF WILDLIFE, DOLPHIN PROJECT, ENVIRONMENTAL INVESTIGATION AGENCY, ENVIRONMENTAL SOLUTIONS INTERNATIONAL, FRIENDS OF THE EARTH, FUND FOR ANIMALS, THE HUMANE SOCIETY OF THE UNITED STATES, INTERNATIONAL WILDLIFE COALITION, MARINE MAMMAL FUND, AND SIERRA CLUB

Mr. Chairman and Members of the Subcommittee, thank you for allowing us to submit testimony regarding funding levels for the National Oceanographic and Atmospheric Administration (NOAA) on behalf of the preceding organizations whose combined members and supporters total more than four million. Although we will address other areas, our testimony will focus primarily on appropriations for endangered and protected species programs of the National Marine Fisheries Service (NMFS) in Fiscal Year 1995.

The Congress adopted on the 26th of April a new regime for marine mammal conservation, amending the MMPA in such a way as to require considerably more resources, beginning immediately than have ever been required for the programs required by the MMPA. Many of the organizations worked diligently to persuade the Congress to spread some of the costs to those who benefit from the fish harvesting and other activities that affect marine mammals. We were only moderately successful in that effort so now must advise you of the need for substantial increases in conservation funding. In general it would be wise to shift funds devoted to increasing the size and mechanical efficiency of fishing fleets and to increasing their harvest and market toward conservation of the marine resources and toward aiding communities in making the transition to more sustainable economies. William J. Brennan, Commissioner of the Maine Department of Marine Resources was quoted in a recent Boston Globe article expressing a similar view.

In general we agree with the April 12th testimony of Mr. Amos S. Eno, Executive Director of the National Fish and Wildlife Foundation before the Subcommittee on Environment and Natural Resources and the Subcommittee on Fisheries Management of the U.S. House of Representatives. As noted by others, including Amos Eno, although the NMFS has been given increased responsibility, the Service is dangerously underfunded and understaffed. Of the stocks of fish whose status is known, more than 40 percent are considered over-utilized, and 42 percent are below the stock level necessary to support long term potential yield. Populations of many marine and non-marine fish are falling or have fallen drastically, hence the need to list and otherwise act to conserve them.

There are a number of fishery related areas that we wish to elaborate on, especially in light of the recent reauthorization of the Marine Mammal Protection Act (MMPA). For the first time since the passage of the MMPA in 1972:

1. Permits will be issued to incidentally kill marine mammals from populations of unknown and depleted status;
2. Permits will be issued to incidentally kill threatened and endangered marine mammal species;
3. The burden of proof has been shifted from some user groups to the NMFS in order to determine if fishing activities will have serious, adverse impacts on populations of marine mammals before such impacts can be halted;
4. The intentional killing of pinnipeds eating endangered and other fish in the Ballard Locks area of Washington state is permissible;
5. The same interests that have exerted excessive influence on Fishery Management Councils could have disproportionate influence on how marine mammals are protected under the new regime of numerous advisory committees under the MMPA. It is unlikely that fishing interests through the Fishery Councils will willingly limit harvests of fish to protect noncommercial by-catch such as marine mammals.

The real problem for the fishing industry is the array of fishing practices that have reduced marine mammal populations while overharvesting fish populations. Dead marine mammals and the destruction of their habitats are symptoms of wasteful fishing. Often, the cheapest fishing methods are also the most damaging. Obviously the regulatory responsibilities of the NMFS have been tremendously increased in the wake of the reauthorization of the MMPA. It is absolutely imperative that sufficient funding be made available for the Service to adequately fulfill its mandate to reduce fishing kills of marine mammals to the zero mortality rate goal within seven years, or the MMPA--the first major wildlife law passed by this country--will be starved to death.

With this in mind, we recommend several enhancements below but highlight specific examples here:

♦ Creation of an NGO fund in both the assessment and recovery planning functions to allow nongovernment organizations (NGOs) and other interested parties to attend Take Reduction Team meetings in order to be on par with Fishery Management Council input into the protection of marine mammals. Such cost coverage has been traditionally authorized as part of agency fact-finding since these parties bring information to the agency and its record that would otherwise be unavailable. We recommend a \$300,000 enhancement for each line for this purpose.

♦ Creation of a fish and marine mammal incidental take study conducted by the Woods Hole Oceanographic Institution (WHOI) Department of Marine Policy. We are recommending \$200,000 for a study that will review marine mammal interaction and fish by-catch within fisheries. Because aquaculture production is beginning to surpass some fisheries, we would like to suggest that the study also weigh the environmental impacts of seafood farming (destruction of wetlands, introduction of disease, escapements weakening the genetic viability of indigenous populations, etc.) The overall goal of the study would be to identify, certify, and promote low-impact technologies and fish and fish products that have been harvested with environmentally safe methods and technologies. The value of such a market-based strategy would be to encourage environmentally sound methods of harvesting seafood products in the market. It will also be necessary to examine consumer receptivity to paying more for environmentally sound seafood products.

♦ We commend the President for responding to the need to study Marine Mammal/Fishery Interactions. However, we recommend an increase of at least \$3.5 million over last years' levels in order to help researchers learn more about the interactions between fish, mammals, and humans and the habitats of marine mammals. With the new habitat protection language in the MMPA, additional funding is urgently needed to conduct adequate research for the NMFS to fulfill its mandate. This includes the control of planned predation at Ballard Locks near Seattle. At least \$150,000 should be provided solely for non-injurious technologies to reduce predation of steelhead (which should be listed as endangered but are not) by improving computerized water flow and lock

management capability, by adding natural vegetation cover for trout and by opening more passageways for upstream trout migration.

♦ We support the Administration's request for \$500,000 for Dolphin Safe Technologies. The practice of setting nets on dolphins in order to capture tuna is inherently flawed. The practice can never be adequately perfected to lower the mortality rate to zero. According to a National Academy of Science report, no U.S. research and development funds should be spent on "modifications" to encircling dolphins with purse-seine nets, whether such research is carried out by NMFS, the Inter-American Tropical Tuna Commission (IATTC), or any other competent international body. This is now all the more clear since it is a violation of the law since March 24, 1994 for U.S. boats to set nets on dolphins. The yellowfin tuna embargo provisions were placed in the MMPA in order to discourage dolphin deaths caused by the purse-seine fishery in the Eastern Tropical Pacific (ETP). We believe that this amount of funding is adequate to research and develop fishing technologies to be used as alternatives to the deliberate, chasing, herding and corralling dolphins prior to setting nets on schools of dolphins. Alternative techniques, would be in the interests of not only dolphins and fishermen, but the long-term viability of the ETP fishery and protection of the habitat.

We have the utmost respect for the marine mammal and fishing gear scientists and researchers at WHOI. As any development of technologies will have at least some aspects that are transferable from one fishery to the next, and because of the problem with interaction of harbor porpoise, depleted coastal bottlenose dolphins, and other critical marine mammal populations, we recommend that at least half of the funds (~~\$250,000~~) for dolphin safe technologies be directed to WHOI to research Dolphin Safe Technologies. It would be easy for the NMFS office in Woods Hole MA to work with the scientists at the WHOI to complement the work of NMFS laboratory in the Southwest. Again, we urge that at least half of the line item for Dolphin Safe Technologies be earmarked to WHOI in order to broaden the scope of the gear research. This is separate from the above marketing-oriented study.

♦ We recommend increasing the funding to Assess the Status of Protected Species \$9 million above the Administration's increase to \$37.267 million. This is due to the need to assess the status of scores of marine mammal stocks in a short time. This new areas includes Protected Species Research and Endangered Species Act Listing and Status Review and must go beyond the status quo level that the Administration recommends. The Administration's request for FY 95 is inadequate to cover research and related tasks that are necessary in order to properly protect endangered marine wildlife such as the Gulf of Maine harbor porpoise, the Gulf of California harbor porpoise, sea turtles, Pacific salmon, and other protected species. In these cases, preventative measures would be fiscally sound in the long run. We request at least \$3 million specifically for listing in light of the serious backlog of species subject to petitions and other listing actions that warrant attention and whose status is so poor that listing is imperative. As part of this the Committee should provide another \$70,000 and direct the agency to use it to review decisions not to list anadromous species of less than 600 in a given river and season's run. An equal increase should be available for interagency consultation and a parallel investigation should be ordered for any no-jeopardy opinions concerning actions that reduce populations to or below the level of 400 in a given river and season's run. These are rough benchmarks, but may reveal or prevent avoidance of the duty to issue jeopardy opinions and to list and then delist once biological recovery is achieved.

♦ As noted above, the former Conservation and Management Operations/Protected Species Management line item should be broadened to include a line item dealing with interagency consultation with funding of at least an additional \$3 million. These consultations should address the potential jeopardy of salmon, Steller sea lions, and species in extraterritorial waters affected by U.S. funded or designed projects. It is also fairly clear that NMFS has the authority and the duty according to courts that have ruled on the question (*Defenders of Wildlife v. Lujan* 8th Cir. 1990, reversed on other grounds 6/12/92) as it pertains to the FWS, to advise agencies as to the effects of their actions on listed species overseas. For example, the Chinese have decided to go ahead with plans, developed in part by the U.S. Interior Department Bureau of Reclamation, to build the largest dam in the world--the 3 Gorges Dam Project. We would like to note that the Bureau of Reclamation has recently withdrawn from the 3 Gorges project in response to a court challenge brought by *Defenders* under the ESA. NMFS experts should be able to advise the Treasury Department and the Bureau of Reclamation and the Army Corps (currently seeking greater overseas leeway) and other agencies as to the effect of other dams on listed species, however.

♦ **The Tissue Bank & Stranding Network** line item should be a total of \$1.425 million. Of this, \$500,000 is requested by the Administration to operate the basic program as it currently exists; plus \$100,000 to provide a database, plus an additional \$100,000 to expand and analyze impacts of contaminants, \$50,000 for study of diseases including collection of blood serum and testing diseases which may be endemic in a given marine mammal population; plus \$175,000 to fund a stranding necropsy position in each region of NMFS. In order to provide reliable information on causes of death in animals and to collect adequate tissue and blood samples, it is necessary to provide a dedicated staff position. Often inadequate or no information is received about carcasses due to inability of regions to send a trained staff person on a timely basis to assess stranded animals. Thus we lose valuable information on potential anthropogenic factors contributing to marine mammal mortality. Finally, the \$200,000 contingency fund that was authorized but never appropriated for NMFS is urgently needed to allow the Service to respond to unusual mortalities. Congress directed the Service to develop a comprehensive database on marine mammal health issues in the Marine Mammal Health and Stranding Response Act of 1992. Without this level of funding NMFS cannot provide an adequate level of response to emergency and unexpected strandings. Currently NMFS is unable to accomplish this directive, and this becomes even more alarming in light of the fact that the NMFS will increasingly need to rely on accurate stranding data to monitor and enforce the MMPA and meet the additional burden of proof referenced above.

♦ **The Endangered Species Act (ESA) Recovery Plan** line item should be increased to \$4.0 million in order to enable the NMFS to create recovery plans for all species in need of protection. Under the newly reauthorized MMPA, fisheries are only issued permits to incidentally kill ESA listed species if the species has a recovery plan already in development or developed.

♦ **Within the newly renamed category of "prevent listings"**, in which the former Marine Mammal Protection Act line is subsumed, the amount should be raised to include items authorized and required but not yet mentioned in this testimony such as greater enforcement. We believe this entire program has been chronically underfunded. Now with the reauthorization of the MMPA and with all the added duties of the NMFS, it is imperative that sufficient funding be available to carry out the responsibilities. For example, sufficient funds are needed for observers aboard commercial fishing vessels so that NMFS may gather data on incidental take levels, respond to presently unforseen fishery problems, and accumulate information on stranding.

Thank you very much for giving me the opportunity to submit testimony.

#### STATEMENT OF BILLIE HOUGART, THE OCEANIC INSTITUTE

Mr. Chairman and Members of the Subcommittee, I greatly appreciate the opportunity to appear before you and the Subcommittee to thank you for your past support, and to discuss the achievements and opportunities relating to the aquaculture and fisheries programs at the Oceanic Institute in the State of Hawaii.

For more than 30 years, the Oceanic Institute has engaged in the development of technology for the benefit of the U.S. marine aquaculture industry and for the health and welfare of marine fisheries at our research facilities in Hawaii. When the expansion of our laboratory and research complex, now underway, is completed, the Oceanic Institute's Center for Applied Aquaculture will be the largest and most sophisticated facility of its kind in the world. And, we anticipate that our research, technical and support staff can increase in the future from 145 to over 300.

The National Academy of Sciences's Marine Board recently recommended that marine aquaculture technology centers should be established in key locations in the United States to address key constraints and opportunities in marine aquaculture. We are pleased that the Oceanic Institute can respond to this mandate.

Research is ongoing in all key aspects of marine aquaculture. We have comprehensive research efforts underway in

such areas as aquatic feed formulation, disease prevention and health maintenance, water quality, maturation, reproduction and larval rearing of shrimp and marine finfish, stock enhancement of marine fisheries, and the adaptation of imported technologies for domestic application.

Many of our research programs are carried out in cooperation and collaboration with Universities, private research institutions and with Federal and State agencies across the country and in the Pacific basin. This highly focused network of technical and scientific resources is an important complement to the work conducted by Federal and State agencies in the marine sciences.

Several of our most important research programs, research on the culture of marine finfish such as Papio, the culture and release of Moi for stock enhancement in Hawaiian waters, and the Asian Interchange Program have been receiving generous support from this Committee. These programs have made significant contributions to the State of Hawaii, and the nation as a whole.

Our Finfish Culture Program has evolved from the combined efforts of feeds research and the development of finfish grow-out technology. The goal is to advance the culture technology of important marine finfish, such as "Mahi mahi" and "Papio", to the point of commercial feasibility.

We are now finishing the technology transfer package for Mahi mahi culture. A major field demonstration test to grow Mahi mahi in large submerged cages will be conducted soon by the private sector in deep waters off the shores of Mississippi. Our work with Papio is just underway but already significant strides have been made in reproduction and in larval rearing.

The Aquaculture Interchange Program. This program has made significant strides in the exchange and application of Asian aquaculture practices by the U.S. industry. Each year, AIP organizes a workshop, bringing together experts from a particular field of aquaculture for a direct, reciprocal exchange of information.

Results of workshops are compiled and made available to the U.S. industry and to researchers. Topics have included mass and continuous culture of live microscopic feed for larval rearing of marine finfish in hatcheries, and the culture of cool-water marine shrimp.

The most recent package is an assessment of selective breeding of fishes in Asia. All topics chosen for investigation have highly important economic benefits for the U.S. marine aquaculture industry.

To date, the program has focussed on Asian aquaculture technology. But, because it is now clear that overseas technology development in marine aquaculture is rapidly expanding from Asia towards Europe, the United States must now increasingly interact with science organizations and researchers in European countries.

If the United States marine aquaculture industry is to remain competitive in the global market place, it must stay current in all aspects of culture technology development. Therefore, we are asking for a modest increase in funding for FY 1995 to expand this program to include Europe.

The Stock Enhancement Program. This program is a response to an estimated 85% depletion in natural fish populations in Hawaii's coastal waters during this century. Beginning with the

stocking of striped mullet, it is anticipated that a number of important commercial and recreational species that are currently under severe stress will be restored in the Hawaiian waters by the efforts of this program.

In 1994, The Oceanic Institute expects to complete the release protocols and evaluation of the striped mullet. The Institute, in cooperation with the National Marine Fisheries Service and the State of Hawaii, has demonstrated that the restocking of the mullet in Hawaiian waters works.

Our fishermen are now catching large numbers of released mullet. For example, in a recent sampling, hatchery produced mullet comprised around 30% of the mullet population in Mulo Bay. The technology and release protocols developed for the test species are being adapted to the priority game species in Hawaii, the Pacific threadfin, known locally as "Moi."

Mr. Chairman, in the past decade, most of the world's fisheries have been exploited to the point of near exhaustion. As stocks are fished out, species previously ignored get caught, as do small fry of the big species: fishermen in the North Sea now bring home whiting that they would have sneered at 20 years ago, and their catches are as small as they were in the 1970s.

It is now clear that responsible and science-based enhancement of important marine stocks, based on sophisticated aquaculture technology, will play an important role as governments struggle with issues of overexploitation, pollution of critical aquatic habitat, and the depletion of important commercial fisheries stocks. To that end, the Oceanic Institute is now exploring opportunities to collaborate with interested Federal and State institutions and apply the knowledge gained in Hawaii to enhance depleted coastal fisheries stocks elsewhere in the United States.

As well, commercial aquaculture of marine species can help meet the demand for aquatic protein. For example, in just 20 short years, aquaculture of marine shrimp has grown to the extent that farmed shrimp now account for over 25% of all shrimp in the world's markets and it is now possible to trade shrimp in the commodities market.

The programs supported by this Committee at the Oceanic Institute provide a sound investment in the development of technology for American aquaculture and fisheries interests.

Mr. Chairman, for these three important programs, Finfish Culture, Stock Enhancement, and Aquaculture Interchange, we are requesting a total of \$1.3 million, including an increase of \$100,000 over FY 1994 for the latter. We greatly appreciate the continuing support of this Committee and ask for favorable consideration of our request in FY 1995.

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STATEMENT OF DIANNE E. REED, PH.D., PRESIDENT, MIDATLANTIC  
EMPLOYER'S ASSOCIATION

I am the newly appointed President of the MidAtlantic Employer's Association (MEA), a trade and membership services association located in Valley Forge, Pennsylvania. The Association presently has over 2,700 member companies located in four states. Its function includes sponsorship of the Mid-Atlantic Trade Adjustment Assistance Center (MATAAC). The MATAAC is one of twelve centers nationwide engaged in administering the Trade Adjustment Assistance program for firms which is funded by Congress through the Economic Development Administration.

It is a pleasure to come before this Committee representing the twelve trade adjustment centers and their sponsoring organizations. While this is my first appearance before the Committee, the TAA program is no doubt familiar to all members of the Committee, and I would like to extend the gratitude and thanks of all those involved in TAA for your past support and commitment to the program.

Fiscal Year 1995 will find TAA at crossroads as the program will attempt to satisfy the almost insatiable demand of the American manufacturing community for assistance against foreign trade competition, while also responding to the recognition of the program as a method for providing service to other segments of communities in need.

The reauthorization of Trade Adjustment Assistance for firms by Congress in 1993 ensures the availability of the program through September 30, 1998. Your recognition of the program's value, manifested by the reauthorization, is appreciated. Your recognition of the program's value is also supported by the facts.

Participation in TAA is increasing. In FY '93 there was a 43% increase in the number of firms certified into the program over FY '92, and a 68% increase over FY '91.

The size of the participating firms is also increasing, suggesting that larger firms in the economy are struggling to retain sales and employment against foreign competition. The average employment of firms with approved adjustment plans in this program in FY '93 was 60% greater than in FY '91 and 83% greater than in FY '92. An average of 147 employees work at the firms presently approved for adjustment plan implementation.

Despite these increases in demand and the increasing number of jobs TAA is working to save, funding for the program generally remained constant in FY '91 and FY '92. In FY '93, funding was reduced by 27% over previous years.

Baseline funding for this program, the minimum amount of funding considered as necessary to operate the program successfully is \$13.7 million as reflected in the FY '91 and FY '92 appropriations.

Simply stated, TAA works for the import impacted manufacturing community. The Trade Adjustment Assistance Centers have worked tirelessly and have made a commendable effort to accommodate this demand with shrinking resources.

However, there is soon to be a time when the credibility of this program will suffer irreparably because we will be unable to deliver the services we advertise to a majority of the firms that seek our help. Trade Adjustment Centers around the nation have constantly provided client firms, and potential client firms, with a clear and honest understanding of the limited resources available to this program and the reality that program services may not be available for adjustment plan implementation assistance.

In many cases these warnings have been prophetic as TAA services and resources are rationed and deferred. The result has created a national backlog of approved technical assistance in the amount of \$8.115 million. This figure represents projects that the TAA program administrators at EDA have approved. The firms have identified these projects as necessary to their survival against import impact; the Trade Adjustment Centers have acknowledged the validity and importance of these projects to the survival of the firms; and, EDA has approved the projects subject to the availability of funding.

These decisions to approve meaningful plans for adjustment around the nation are certainly justified if you review the effectiveness of TAA during the past five years. Since 1989 a total of 454 firms have completed all or part of their approved assistance plans. These firms had experienced declines in employment of almost 14% from two years prior to their certification into the TAA program. Their sales had declined by over \$391 million or almost 10%.

After some participation in TAA, these same firms have maintained existing employees and sales. Moreover, the trends in decline have been

reversed. These same firms have experienced increased employment creating new jobs at 7.1% over previous employment. Sales have increased even more dramatically. The firms have created over \$803 million in new sales, a 22% increase over their sales volume on the date they were certified into TAA.

In a comparison, we have looked at one region of the nation where a composite of firms that did not pursue TAA experienced devastating results. In the western region of the country, some firms were certified into TAA but chose not to implement at least one task in their adjustment plan. The fate of those firms is unfortunate as 39% of the firms that responded to our inquiry indicated they had gone out of business and cost the economy \$40 million in lost sales and 634 lost jobs collectively. Those firms responding to our inquiry and still in business, yet without TAA participation, exhibited an 18% decline in employment and a 10% decline in sales nonetheless. When this decline is added to the sales and employment loss experienced by firms out of business the comparative results are truly startling.

Perhaps the most significant measurement of the effectiveness and usefulness of TAA is based on an analysis of what you, Congress, receive in return for your appropriation of dollars to TAA. Unlike all other federal assistance programs for business, TAA has measured the extent of return on federal funds dedicated to TAA.

Between FY '89 and FY '93 Congress appropriated \$54.2 million to the TAA program nationwide. During this period a total of 51,439 private industry jobs were impacted by the assistance delivered. This means it cost approximately \$1,053 to assure the preservation of each of these jobs. When we analyzed the economic impact of each job in terms of multiplier jobs generated in providing goods and services to the employed manufacturing worker, we determined that federal and state tax revenues generated by preservation of the primary manufacturing jobs along with those multiplier jobs equalled \$7,260.

Thus, by investing \$1,053 in a TAA-related job, Congress assured a return in tax revenue of \$7,260 per job or a 689% return on your investment. We must congratulate you for a most prudent and profitable investment policy. We believe this return on investment data demonstrates the precise reason why TAA should be fully funded.

These figures clearly justify Congress' decision to reauthorize the TAA program in 1993, and by themselves provide a compelling argument for funding the baseline (\$13.7M) and backlog (\$8.11M) requests.

Yet there are greater challenges for TAA and the Trade Adjustment Centers in FY '95, namely the possible expansion of services into other areas targeted as economically distressed. For the first time in many years, EDA is investigating the use of the TAA program as a model and resource for providing similar service to other economic and industrial needs.

In response to questions about TAA funding by the Senate Environment and Public Works Committee, William W. Ginsburg, then-nominee for the position of Assistant Secretary for Economic Development stated,

"I would be interested in exploring the feasibility of using a program based on the trade adjustment assistance model to meet an expanded group of industrial adjustment needs. This year we are undertaking a demonstration program using the existing TAAC network to assist in the adjustment of firms injured by defense cutbacks. There may also be a role for this type of assistance to firms injured through natural disasters. As you may know, the TAAC model provides an opportunity for intervention before the manufacturing facility is closed and, when successful, saves the existing companies and jobs. This avoids the significant monetary and social costs to the community and workers who face unemployment, retraining and relocation decisions as a result of plant closings. Our experience with our other adjustment programs such as Title IX, demonstrates that it takes a great deal of time and effort to restore jobs to a community once they are lost. A successful broad-based company and job retention program could be of significant benefit to the nation's adjustment arsenal."

In reality, the demonstration project referred to by Mr. Ginsburg was actually in response to an initiative of the TAAC sponsors spearheaded by the University of Michigan, School of Business Administration. The sponsoring organizations relied upon a study of the Federal Reserve Bank of Dallas which projected losses of 774,509 jobs between 1992 and 1998 due to reductions in defense spending.

In analyzing this sobering statistic, the sponsors noticed that Trade Adjustment Assistance Centers already existed in eight of the eleven highest impacted states. Our suggestion included providing defense conversion funds from EDA to all Centers in order to immediately begin addressing the defense conversion impact. We reasoned, and EDA agreed, that these funds would be almost totally directed to firms. There are no start-up costs or "infrastructure" costs necessary to begin such a program. Administrative mechanisms in Washington, D.C. and around the nation were already in place to serve trade impacted firms. Defense conversion assistance could be administratively absorbed into this existing program. Therefore, more federal dollars could be channelled directly to defense impacted firms.

Additionally, we discovered that close to 30% of the existing TAA clientele was also defense impacted. It became obvious that many firms related to the defense industry had need for marketing, financing, management, administrative, production, and distribution expertise like that provided to trade impacted firms by TAA.

As this demonstration project proceeds through FY '94, discussions among sponsors and at EDA have involved possible expansion of this program and its expertise to accommodate businesses located in distressed communities and/or affected by natural disasters. Clearly, Mr. Ginsburg's vision is receiving attention.

As you are aware, the Administration's budget for FY '95 did not include funding for the TAA program. Mr. Ginsburg has been on record as stating that he has not been involved in the preparation of the Administration's budget positions on this issue but that he would look forward to addressing this issue in future budget deliberations.

Mr. Ginsburg has also testified before this committee that "this decision does not reflect a view that business and technical assistance for trade-impacted manufacturers is unimportant, nor a view that the Trade Adjustment Assistance Centers are ineffective..." We agree.

Annually, there are suggestions made that TAA provides a service which can be incorporated into other federal programs. We have analyzed EDA's University Center program, NIST's emerging network under the Manufacturing Extension Center Program, SBA's Small Business Development Center program, and EDA's Minority Business Development Center program as possible partners with TAA. However, when one analyzes the limited scope of services provided by those other programs, their entirely disconnected functions, the distinct sphere of clientele they serve, and their quantifiable effectiveness in comparison to TAA, it becomes clear that purported program duplication is mythology and proposed program incorporation is infeasible.

The Trade Adjustment Assistance program for firms is the only effective and proven federal program to serve small and medium-sized manufacturing firms with in-depth management and technical assistance in all functional areas through turnaround strategy planning and implementation. Given the increasing demand of firms for TAA services; given the increasing size of firms making these requests; given the backlog of unfunded approved assistance; and, given the reasonableness and logic of expansion of TAA services into other adjustment endeavors, we believe our request for baseline and backlog funding in the amount of \$22 million in FY '95 is worthy of your most serious consideration. The American business community and workers whose firms and jobs have been impacted deserve your increased support and we thank you for it.

# **STATEMENT OF DR. KOFI BOTA, CLARK ATLANTA UNIVERSITY**

Mr. Chairman, thank you for the opportunity to submit this statement for the record. Clark Atlanta University (CAU) is proposing the establishment of a Center of Excellence for Technology Transfer (CET<sup>2</sup>) to conduct value-added research and development that is market directed and to promote commercialization of new technologies. In developing the concept for CET<sup>2</sup> we have worked closely with the Department of Commerce supported Center at Iowa State University (ISU) -- The Center for Advanced Technology Development -- to align the goals and mission of our Center with those of the Department of Commerce.

Clark Atlanta University, a historically black comprehensive university formed in 1988 by the consolidation of Atlanta University (founded 1865) and Clark College (founded 1869), has built a significant base for research and development, technology transfer, and education in the sciences, engineering and technology. The recent establishment of the Research and Education Center for Science, Engineering and Technology (RECSET) is an affirmation of CAU's commitment to both basic and applied R&D and technology transfer.

CAU's current centers of excellence and laboratories in science, engineering and technology have positioned the university to play a significant role in the marketing and commercialization of technology in the region. These centers include:

- Center of Excellence in Information Sciences funded by the National Science Foundation and the Army Research Office with research foci in database, image, and signal processing, software technology, and artificial intelligence;
- Center for Environmental Policy, Education and Research funded by EPA and the Army Research Office. Program areas include environmental policy analysis, environmental modeling, and health risk assessments;
- Minority Research Center of Excellence funded by National Science Foundation. Program foci include atomic and molecular theory, fractal physics, nonlinear systems, and wavelet analysis and image compression;
- Center for High Performance Polymers and Ceramics funded by NASA is expanding existing polymer and ceramic research capabilities in polymer synthesis; polymer characterization and properties; polymer processing; and polymer-based ceramic synthesis;
- Laboratory for Advanced Aerospace Structures;
- Software Engineering Research and Education Laboratory.

These centers and laboratories provide CAU faculty and students with a broad based understanding of technology research and development. The CET<sup>2</sup> is the logical next step. We will work with industry to focus on R&D from a market-based perspective and the commercial viability of the research product.

Specific activities of the CET<sup>2</sup> will include:

- Access to technology transfer opportunities information;
- Technology evaluation including bench and pilot scale testing; assistance with technology development;

- Incubation and strengthening of small and minority business enterprises in technical, marketing, and management activities;
- Information resources management for a broad range of technology, HBCU/MI personnel and physical resources, and minority business enterprises;
- Assistance with licensing, patents, and other legal matters;
- Scientific and engineering consulting to industry and government;
- Technology transfer and training for government and industry;
- Education, training and curriculum enhancement for faculty and students;
- Fostering Mentor/Protege Programs; Small Business Technology Transfer; Small Business Innovation Research; Cooperative Research and Development Agreements.

Mr. Chairman, universities can contribute directly to national economic goals through the development and implementation of technology development centers like the CET<sup>2</sup>. By focussing on value-added research and development that is market directed and the promotion of commercially viable new technologies, we will be able to help industry utilize research dollars in the most cost-effective manner.

Furthermore, by supporting the development of the CET<sup>2</sup>, Congress and the Department of Commerce can provide leadership for national technology transfer to HBCU and Small and Minority Business Enterprises.

We are seeking this subcommittee's support for an appropriation of \$3 million in FY1995 for initial costs associated with the development of the CET<sup>2</sup>. These funds will be matched by university and private sources.

Thank you for the opportunity to submit this statement and for your careful consideration of this request.

#### STATEMENT OF DAVID POWELL, PRESIDENT, NATIONAL WEATHER SERVICE EMPLOYEES ORGANIZATION

Mr. Chairman and members of the committee, I am pleased and honored to once again submit to you this testimony for the record on FY-1995 NOAA/NWS appropriations.

I am the president of the National Weather Service Employees Organization (NWSEO). I am stationed at the Weather Service Office in Chattanooga, Tennessee. I represent the union of employees of the NWS and the National Environmental Satellite Data and Information Service (NESDIS), both part of NOAA. All our members are engaged in observing, forecasting and disseminating weather information.

In previous testimonies before Congress, our organization has tried to focus on two themes: protecting public safety and providing weather services to Americans in the most cost-effective manner. The following are our specific observations and recommendations on the FY-95 budget.

##### 1. Presentation of the Budget to Congress:

Mr. Chairman, this is the first NOAA/NWS congressional submission budget in more than a decade that is totally inconsistent with previous line item designations and programs. I have received numerous comments from congressional staffs knowledgeable on this budget, my own union officials and others on Capitol Hill saying that this budget is unreadable, inconsistent and

deliberately vague, to the detriment of the American people. For example, the National Weather Service has become an "Advance Short-Term Forecast and Warning Service," and none of the breakdowns of this item correlate to previous budgets.

The figures are inconsistent. On page NOAA-204, the NWS seems to be cutting 20 full-time equivalents (FTE) but, on page NOAA-21, shows a net gain of 49 positions. On page NOAA-115, a net reduction of 110 FTEs for the NWS is shown. Comparisons to last year's FY-94 budget submissions in every area are inconsistent. A final note, Mr. Chairman, NOAA should resubmit this budget to you with appropriate cross-references to FY-94 appropriations.

2. Proposed Reductions Would Affect Public Safety and Ignore Congressional Intent:

The "Advance Short-Term Forecast and Warning Service," which I presume means the NWS and NESDIS function within NOAA, proposes a decrease of \$15 million and 110 FTEs within the operating budget. These reductions would do two things immediately:

- (a) Devastate NWS field office staffing, curtail hours of operations, eliminate night shifts at these offices and reduce services and warnings to the public with devastating results and possible loss of life and property; and
- (b) Approval of this budget reduction would permit the NWS to ignore the congressional intent of PL 102-567, the Weather Service Modernization Act.

Let me explain both items more fully. On pages NOAA-115, 116, of this budget submission, under "short-term base funding," NOAA states:

The Short-Term operating base budget is reduced by \$15.0 million and 110 FTEs. The new modernized technology is being installed in the field. The significant service improvements that have resulted from the new technology obviate many of the fears and concerns that degradation of services might result from the transition of the old structure to the new. Because of the success of the new technology, the NWS, staying within the spirit of Public Law 102-567, will reduce operating expenses by \$15.0 million in FY 1995. At the same time, modernization goals will be pursued in the most economic, efficient manner possible, to ensure that weather stations receiving new radars and equipment are adequately staffed to use the new technology effectively.

Mr. Chairman, in an earlier summary submission to your committee, NOAA appears to have left out a critical sentence that, I believe, signals their real intent. The paragraph with the deleted sentence (italicized by me) is as follows:

The NWS operating budget is reduced by \$15.0 million and 110 FTEs. The new modernized technology is being installed in the field. The significant service improvements that have resulted from the new technology obviate many of the fears and concerns that degradation of services might result from the transition of the old structure to the new. Because of the success of the new technology, the NWS, staying within the spirit of Public Law 102-567, *will accelerate the termination of activities that no longer contribute to the Agency's mission.* At the same time, modernization goals will be pursued in the most economic, efficient manner possible to ensure that weather stations receiving new radars and equipment are adequately staffed to use the new technology effectively.

Mr. Chairman, the Weather Service Modernization Act, P. L. 102-567, was very clear on closings, consolidations or relocations of NWS offices, requiring a certification process that would not cause degradation of services to communities. It has come to my attention that if your subcommittee approves NOAA's requested operations budget reduction, the NWS will take that as a signal to override and ignore the requirements of P. L. 102-567. This should not be tolerated. We recommend explicit language in our appropriations report, to prevent this degradation of service.

The National Weather Service's "modernized" office structure is not in place. The new technologies are not commissioned and staffs are neither trained nor in place. In other words, public and aviation safety will be placed at risk, if the NWS is permitted to move forward unchecked by Congress.

Mr. Chairman, we request that National Weather Service short-term base funding be restored to a level that would prevent the loss of 110 FTE cuts of \$15 million.

3. Impact of Recent GAO Report and Review of Systems Acquisitions:

Mr. Chairman, I am sure your staff has received a copy of the General Accounting Office's March 1994 report (AJMD94-28) on "Weather Forecasting," with its far-reaching recommendations for NOAA and the National Weather Service's modernization systems. The NWSEO has consistently testified that it is not recommending against new technology but seeks to prevent the degradation of weather warnings to the public that may occur unless these new systems can be fully tested and updated. For example, we are absolutely opposed to plans by the National Weather Service in FY-95 to purchase ASOS systems at the requested level of \$17.53 million. We are joined in our opposition to ASOS by other groups. We believe that ASOS is unsafe as a stand-alone observation system, that all units should be decommissioned and that human observers should make observations until ASOS can detect all weather phenomena and its operation can be compared for accuracy to human observations. Anything less, Mr. Chairman, will endanger public safety. You may recall my testimony last year, in which I stated that because ASOS cannot detect thunder, snow, freezing precipitation, sleet or hail, elements that are of the utmost importance to aviation and the public safety, we oppose the procurement and implementation of ASOS systems.

The \$17.5 million requested by the NWS for ASOS acquisition should, in the alternative, be added to the operations/field staff budget where it is needed, to fill the proposed \$15 million shortfall. We are concerned that the price the public is paying for these systems is simply outrageous and deserves further GAO and this subcommittee's investigation. For example, on page 9 of the March 1994 GAO report, it is indicated that 868 planned ASOS units will cost the taxpayers approximately \$632,488 each, using budget figures from the NWS, DoD and FAA. This is an incredible amount of money for a system that does not work.

Mr. Chairman, the NEXRAD system has been estimated by this same GAO study to cost \$1.3 billion for 175 units. This corresponds to approximately \$7.4 million each. We believe this is equally as overpriced as ASOS and deserves further investigation by this subcommittee and the GAO. We therefore recommend that you question the FY-95 request for over \$75 million for NEXRAD system acquisition.

Finally, Mr. Chairman, we are also concerned about the AWIPS funding request, in light of the GAO report. The AWIPS is supposed to be the centerpiece of NWS modernization. However, considering the estimated \$475 million, for 116 offices, at \$4 million each, I recommend that the subcommittee review the \$49 million FY-95 request by NWS for AWIPS acquisition.

4. User Fees Need to be Charged to the Private Sector:

In the FY-95 budget presented to Congress, NOAA proposed the collection of user fees for marine and aeronautical information. The NWSEO has consistently recommended to this subcommittee and to the authorizing committees in Congress the imposition of user fees on the private sector companies that now receive free NWS data and use it for commercial purposes. A FY-93 study prepared by the Heritage Foundation, "A Prosperity Plan for America," recommended charging private weather companies user fees for weather information. They argued that data gathered from the NWS and made available to private weather companies should be sold. This would represent an estimated net to the NWS of \$50 million annually. We have argued, Mr. Chairman, that the private sector forecasting industry in the U. S., which is estimated to be a \$200 million a year industry, should be charged fees. This would be a method of recovering the \$15 million shortfall and the loss of 110 FTEs proposed in this FY-95 NWS budget. We understand that the NWS does charge minimal fees for some services, but it is not enough. I have attached a background paper on this issue prepared by our union two years ago. We recommend that the subcommittee consider increasing user fees to the private sector and dedicate the revenue obtained to NWS operations and field staffing support.

5. The Integrity of the National Weather Service is in Question:

This FY-95 budget reveals a NOAA vision for the 21st century that we applaud, and we wish the administration well with its NOAA environmental goals. We are, however, concerned that this budget reflects a desire on the part of NOAA and Department of Commerce officials to incorporate

NWS functions and change the character of the service without congressional approval. For example, in the NOAA FY-95 budget presentation to Congress, page NOAA-11, it is stated that "The primary objective of the Forecast and Warning Services strategy is to create a truly NOAA-wide forecast and warning service." We request this subcommittee and the House Space subcommittee to conduct joint hearings on the National Weather Service, the original 19th century "Organic Act" and the laws under which the National Weather Service operates. Including in the NWS budget items such as "socio-economics and education," as the FY-95 budget advocates, is far afield from our stated, congressionally mandated purposes.

In conclusion, Mr. Chairman, we have grave concerns about the future direction of the NWS and the budget implications I referred to in my testimony. We respectfully request that you consider maintaining the staffing and field operations levels without approving the NOAA-recommended NWS operation budget. We also recommend that you reverse NOAA's belief that it, and not Congress, can dismantle Weather Service station services and functions at will, regardless of congressional intent. I believe you have the authority to do this, and we request that you insert appropriate language to preserve the NWS operations. I have had my staff undertake a small research project that reviewed the last five years of appropriations legislation as it relates to NWS operations. This is attached to my testimony.

We need your continued help to maintain the public safety and public service nature of the National Weather Service. We are fully committed to assist you and Congress in this regard.

Thank you.

Selected House and Senate Report Language on  
National Weather Service Operations, 1989-1993

House Report 101-173, July 1989, to accompany H. R. 2991, Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Bill, Fiscal Year 1990, p. 15.

"The Committee is concerned about the reduced operating time at the Huntsville, Alabama and Tupelo, Mississippi weather stations and has provided sufficient funds in the accompanying bill to maintain the current operating levels for all weather service in fiscal year 1990."

Senate Report 101-144, September 1989, to accompany H. R. 2991, Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Bill, 1990, p. 26.

"In restoring the funds, the Committee expects the National Oceanographic and Atmospheric Administration to continue operation of West Virginia's weather stations at current levels."

Senate Report 101-515, October 1990, to accompany H. R. 5021, Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations bill, 1991, p. 25.

"The Committee expects the National Oceanic and Atmospheric Administration to continue operation of West Virginia's and all other weather stations at current levels."

Senate Report 102-106, July 1991, to accompany H. R. 2608, Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Bill, 1992, p. 58.

"The Committee further directs that no action be taken to plan for or to implement any reduction in the Greenville/Greer, SC, Weather Service office. The increase provided for the Weather Service are intended to eliminate any financial rationale for reducing this station."

Senate Report 102-331, July 1992, to accompany S. 3026, Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Bill, 1993, p. 58.

"The Committee further directs that no action be taken to plan for or to implement any reduction in the Greenville/Greer, SC, Weather Service office. The increase provided for the weather service are intended to eliminate any financial rationale for reducing this station."

House Report 103-157, June 1993, to accompany H. R. 2519, Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Bill Fiscal Year 1994, p. 46.

"The Committee intends that there be no reduction or degradation of service at the Jackson, Kentucky Weather Service Office or the Weather Service Office in American Samoa."

March 30, 1992

## NWS User Fees

### BACKGROUND

Pub.L. 101-508, Sec. 10202(a) amended Pub.L. 100-685 Sec. 409 to expand the scope of fees for the sale to the public of environmental data, information, and products that NOAA is authorized to charge based on "fair market value". However, the following limits have been placed on the amount of the fees, the first three of which are significant:

1. Pub. L. 101-508, Sec. 10201(b)(1) established limits on the increase in revenues to the U.S. Treasury resulting from the increased fees. These limits on increased fees were \$2 million in each of FYs 1991, 1992, and 1993, and \$3 million for each of FYs 1994 and 1995. Thus, even though the statute directs that the fees be based on "fair market value," the statute also directs that the fees be capped at a level that collects no more than the additional amounts mentioned above. (It should also be noted that any new fees or fee increases for archived data of NESDIS do not count against the fee increase limit cap because Pub.L. 100-685 Sec. 409 already authorized NOAA to collect fair market value fees for such data prior to the enactment of Pub.L. 101-508.)
2. Pub. L. 101-508, Sec. 10201(b)(2) further mandates that increases in revenues to the U.S. Treasury be achieved through "fair and equitable increases in fees for services offered by the various programs of NOAA." The legal requirement of "fair and equitable" suggests that the commercial value of the services could be a factor.
3. Pursuant to Pub.L. 100-685 Sec. 409(b) NOAA is not charging "fair market value" fees for the provision of weather warnings, watches, and similar products and services essential to NOAA's mission. Thus fees for the NOAA Weather Wire Service and the Public Products Service, the official vehicles for providing watches and warnings, were not instituted or increased, respectively, in August 1991.
4. Pub.L. 100-685 Sec. 409(b) requires NOAA to continue to provide its services to other governmental entities and to universities and other nonprofit institutions at no more than cost, and to waive the fees as necessary to participate in international data sharing arrangements.
5. Pub.L. 101-508, Sec. 10201(b)(2) also embedded in the requirement from Pub.L. 100-685 Sec. 409 that data information and products that are "used for research and not for commercial purposes" shall be provided at cost.

## COMPOSITE SCHEDULE OF FEES

Notes for Table:

Fees are per year.

Fees are exclusive of satellite, leased line or telephone call charges that are levied by the carrier.

Connections are dedicated leased line except CAC as noted. New fee schedule applies to listed services on or after 3/19/91, and for products and services covered by a subscription agreement in effect as of that date the increased fee will apply at renewal or at earliest possible amendment date.

Service	Old Fee	New Fee	Remarks
NWS			
NOAA Weather Wire Service	0	0	
Family of Services (FOS):			
Public Products Service	3,000	3,000	No change
Domestic Data Service	3,500	11,760	
Int'l Data Service	4,000	13,444	
Numerical Product Service	10,000	33,600	
Direct Connect Service	12,500	42,000	
Digital Facsimile	3,500	18,480	
AFOS Graphics Service	20,500	68,800	
Climate Analysis Center (CAC)			
Frequent User (100+ calls)	600	1,425	
Moderate User (52-99 calls)	400	968	
Light User (12-51 calls)	140	199	
Casual User (1-11 calls)	48	68	
Radar Data (WSR-57, -74S, -74C)			
Each connection	0	600	New charge
NESDIS/NWS			
GOES-Tap (Standard)	100	236	
GOES-Tap (WSFO)	0	0	No change

NOAA's published fee schedule contained flexibility for each service in the above table that showed an increase in fees, since under Pub.L. 100-685 Sec. 409(c) the published schedule must remain in effect for three years. NOAA states that "it is likely that some fees will need to be adjusted as NOAA gains experience with the new fee system, conducts market studies regarding its operation, and assesses how the marketplace reacts to the fees in the schedule. The fee may be adjusted, when appropriate, by increasing or decreasing the ... fee within the range indicated for each product or service." The permitted range for FOS and GOES-Tap services is 1.65 to 4.54 times the old fee, for CAC services 0.99 to 3.13 times the old fee, and for radar data \$420 to \$900.

## GENERALIZED STATEMENT OF SERVICES

A subscriber to the Public Product Service (PPS) of the FOS receives all public products, including forecasts and warnings, from all NWS offices.

A subscriber to the NOAA Weather Wire Service can select his/her own subset of all public products, including forecasts and warnings, from all NWS offices, up to perhaps 1/2 to 3/4 of the total available. (Service capacity is lower than that of the PPS.)

A subscriber to the Domestic Data Service (DDS) receives all NWS, FAA, and military observations and aviation products from the NWS. This may also include Canadian and Mexican data.

A subscriber to the International Data Service receives international products received and processed by the NWS National Meteorological Center (NMC).

A subscriber to the Digital Facsimile Service receives graphics products depicting observations and forecasts from NMC.

The remainder of the FOS services transmit numerical and/or computer graphic data generated by NWS computer models useful in forecasting.

A subscriber to a radar connection receives a video feed from the radar.

A subscriber to a GOES-Tap receives GOES satellite imagery. The standard tap allows subscriber a choice of imagery that can be changed at will. The WSFO tap provides the user with the same imagery that the nearest WSFO selects.

#### ESTIMATED COSTS

Typically, a television station and large radio stations have the NWWS without incurring a fee.

A small regional company providing real-time weather services and forecasts could do a minimal job (parroting) NWS forecasts using only the NWWS and Digital Facsimile Service for a total of \$18,480.

A small regional company providing real-time weather services and forecasts with any self-respect would require the NWWS or PPS, DDS, Digital Facsimile Service, and GOES-Tap for a total of \$30,476 or \$33,476. A small company may subscribe to one or more (but not more than a couple) radar drops. Some may subscribe to other company's services, such as WSI, SISCORP, or Alden to receive data packages tailored to their needs.

Most television stations with staff meteorologists now subscribe to a service, such as WSI, SISCORP, Alden, or ACCU-WEATHER to obtain data and graphics tailored to their needs. Costs of these vary widely, partially dependent on the type of service, \$500 to \$1000 a month to several thousand dollars a month.

A large national company providing real-time weather services and forecasts would require the PPS, DDS, Int'l Data Service, the Digital Facsimile Service, and GOES-TAP for \$77,396. Additionally, they would require radar connections, either direct or through a reseller.. (WSI, Kavouris, and Alden each have connections on many NWS radars and resell the data to other users.)

#### PRELIMINARY DISCUSSION<sup>1</sup> POINTS

- ☐ Fees go to Treasury not into agency budget;
- ☐ Fees are capped below what NWSEO considers fair market value;
- ☐ "Fair market value" fees are not charged for NWWS and PPS; which is where the NWS's most valuable services are disseminated;
- ☐ There is no differentiation between the end user and reseller, i.e., an end user subscriber pays the same fee as a reseller, whether or not any value-added service is performed.

#### STATEMENT OF BETH CLAUDIA MARKS, DIRECTOR, THE ANTARCTICA PROJECT

##### I. Introduction

Thank you for the opportunity to testify today on the Fiscal Year 1995 budget for the Department of Commerce, and specifically, the Antarctic Marine Living Resources (AMLR) Program of the National Oceanic and Atmospheric Administration (NOAA). I am Beth Marks<sup>1</sup>, Director of The Antarctica Project. This statement, which is presented on behalf of 12 environmental

<sup>1</sup> Non-governmental representative on the U.S. delegation to the Convention on the Conservation of Antarctic Marine Living Resources, 1990-present.

organizations<sup>2</sup>, urges this Subcommittee to approve an appropriation of at least \$4 million to support AMLR, NOAA's directed research program in Antarctica: \$2 million to support AMLR's research program, and \$2 million to charter a research vessel.

The AMLR Program is currently supported by NOAA's R.V. Surveyor. A \$2 million appropriation is sufficient if the AMLR Program continues to be supported by the Surveyor. However, if the Surveyor or another vessel is not available, an additional \$2 million would be needed to charter a vessel. Obviously, without a vessel, AMLR cannot continue its research program.

Although this effort is vital to U.S. interests in Antarctica, and supports our international obligation to the Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR), the Administration is seeking insufficient funding for the AMLR Program in its Fiscal Year 1995 budget request. The current budget request is \$1.2 million, which is the level at which AMLR has been funded for the past two years. We are pleased that the Administration has included funding for AMLR in the FY95 budget. However, this amount has been insufficient to allow AMLR to fulfill its Congressional mandate, and could severely diminish the effectiveness of the Program.

With sufficient funding, it may now be possible to carry out Congress' original mandate, and to:

1. develop an effective, long-term research plan;
2. coordinate effectively with NSF's basic research program in Antarctica;<sup>3</sup> and
3. become involved in multi-national, multi-year programs requiring significant advance planning and commitment of resources.

We recognize that budgetary constraints may make it difficult to increase funding for AMLR for FY95. However, regardless of the level of funding, it is critical that Congress includes language in the appropriations bill which specifies that these funds are for AMLR. After successfully getting AMLR in the President's FY94 budget request, NOAA diverted some of its funding to make up budget shortfalls in other programs. Language must articulate that funding for AMLR is non-discretionary. The AMLR Program is already running on very limited funds; additional decreases could severely diminish the effectiveness of the Program. Language also needs to specify that a boat must be available for AMLR.

In both FY92 and FY93, funds from the State Department's Office of Oceans, International Environment and Scientific Affairs funded several key programs<sup>4</sup>. Although this additional funding allowed several key components of the Program to proceed, funding was still not available for contingencies.

The State Department does not intend to fund AMLR programs in FY95. This means that without additional funding from Congress, several initiatives, begun with State Department funds,

<sup>2</sup> The Antarctica Project, Friends of the Earth, Greenpeace-U.S., The Humane Society of the United States, The Humane Society-International, National Audubon Society, National Parks and Conservation Association, National Wildlife Federation, Natural Resources Defense Council, Sierra Club, Wilderness Society, World Wildlife Fund-U.S.

<sup>3</sup> NSF's Office of Polar Programs funds and manages the United States Antarctic Program.

<sup>4</sup> FY92: \$62,000 funded U.S. observers on board commercial fishing boats. FY93: \$125,000 funded a crab workshop; 160,000 supported the development of ecosystem models. For FY94, about \$90,000 has been requested to fund crab research. These programs are described in the testimony.

will not be able to continue, and the Program will be unable to follow through on recommendations made by an AMLR review panel<sup>3</sup>.

The environmental community strongly supports the AMLR Program because research results have provided the foundation for the adoption of strict conservation measures. The United States is only one of two nations which is studying both the predators and their prey. This is critical to meeting the ecosystem-oriented objectives of CCAMLR. CCAMLR is the only international agreement designed to manage the remarkable productivity of the vast Southern Ocean. AMLR is critical to CCAMLR's success. We must seize the opportunity to strengthen AMLR, and ensure its continuation, by increasing its appropriation. In the absence of AMLR, the principal fishing nations, such as Japan, Russia and Chile, will continue to resist implementation of conservation measures, and overfishing will persist.

Data generated by the U.S. AMLR Program has been essential in protecting the Antarctic marine ecosystem. Since AMLR's inception, the United States has played a significant role in developing conservation measures aimed at restricting the harvesting of exploited species, and in the development of the CCAMLR Ecosystem Monitoring Program:

- The U.S. undertook the first research cruises which confirmed that fish stocks in the Southern Ocean were harmed by commercial fishing operations. These results led to the decision to prohibit or limit fishing in certain areas.
- Research results from the AMLR Program have confirmed the relation between krill availability and predator health. This has led to the development of measures to ensure that the commercial krill catch is not overly concentrated near predator breeding sites.
- Consensus within CCAMLR to initiate a precautionary cap on krill fishing was reached in large part because of research results generated by the U.S. AMLR program.
- In response to a U.S. fisherman initiating an Antarctic crab fishery, the U.S. convened a CCAMLR workshop to develop a long-term monitoring plan for the fishery, and developed a model research and development plan<sup>4</sup> to ensure that the fishery did not develop ahead of the acquisition of biological data. This set a precedent for other new and developing fisheries.

In the absence of the results generated by AMLR, the U.S. CCAMLR delegation will be unable to argue persuasively for the adoption of conservation measures aimed at limiting the harvesting of exploited species. The major fishing nations in the Southern Ocean will continue to resist implementation of these conservation measures, and the marine living resources will continue to be exploited beyond sustainable levels.

In addition, now that the United States has become a fishing nation, it is especially important for us to maintain credibility. This is not the time for the U.S. to decrease its research efforts.

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<sup>3</sup> Review of the United States Antarctic Marine Living Resources (AMLR) Research Program, 27-29 May 1992, La Jolla, CA (Dr. Robert J. Hofman, Marine Mammal Commission, Chairman). In particular, the review panel recommended hiring an ecosystems modeler who would develop simulation models which would correlate the interactions between the predators and prey, and fisheries, and would ascertain if the design of the research program can separate natural from human-induced impacts on the predators and prey. The panel identified the major weakness of the program as being the lack of an ecosystem model on which to base the program's predator-prey data.

<sup>4</sup> Adopted by the CCAMLR Commission at the 1993 CCAMLR meeting.

## II. Background

Commercial harvesting of Antarctic fish began in the early 1970s. By 1976, several nations had launched commercial harvesting operations for krill, the one- to two-inch long shrimp-like crustacean that forms the basis of the Antarctic food chain. The Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR) was negotiated in response to the collapse of several species of fish from unregulated fisheries, and the concern that a rapid escalation of a krill fishery could precipitate the demise of the Southern Ocean marine ecosystem.

Because of krill's pivotal role in the food chain, an escalated fishery could also impede the recovery of whale populations.

CCAMLR was formulated in an attempt to provide a management system that would both protect the ecosystem and allow fishing activities in the region. CCAMLR is unique in its "ecosystem" approach to the management of fisheries, because its aim is to allow sustainable use of any stock while preventing irreversible damage to populations of target species and species dependent on or related to the target species. CCAMLR is thus the first international convention to address ecosystem management goals, rather than strict conservation goals which emphasize the protection of marine stocks.

The Convention entered into force in 1982, and established an advisory Scientific Committee and a regulatory Commission with authority to impose restrictions on commercial fishing operations. To date 21<sup>9</sup> nations, including the major fishing nations in the Southern Ocean--Russia, Ukraine and Japan--have agreed to subject their fishing activities to regulation under the Convention. This agreement comes at a price--fishing is allowed to continue until proof of over-fishing has been established. This is counter-intuitive to a scheme of sustainable management, because it permits harvesting to persist until stocks have decreased to alarmingly low levels. Yet it is the only way to reach international agreement.

The Convention requires consensus decision-making, which means that all nations must approve measures to prevent overharvesting. Only with persuasive scientific information will the fishing nations be forced to agree to and comply with conservation measures.

To give effect to the Convention domestically, and to ensure the acquisition of the requisite scientific information, Congress enacted the Antarctic Marine Living Resources Convention Act of 1984<sup>9</sup>. This act directed NOAA to develop and implement a directed research program to support and facilitate implementation of CCAMLR. This program, the U.S. AMLR Program, has been implemented by NOAA's National Marine Fisheries Service, since 1986, when Congress approved the Program Development Plan (PDP) for the program<sup>9</sup>.

When CCAMLR entered into force it requested that member nations design and implement programs that would address questions about basic krill biology and population dynamics, and the interaction between krill and their predators<sup>10</sup>.

The U.S. AMLR Program was the first national research program to investigate the state of the fish stocks in the Southern Ocean. The first AMLR cruise confirmed that fishing operations were having adverse impacts on marine life, and indicated that several fish stocks were being exploited at rates above those which allow replacement of the stock. Several of the fish stocks had been so heavily fished that their populations were less than 10% of their size in 1982<sup>11</sup>.

<sup>9</sup> The full program, as planned in the PDP, was to be funded at the \$4 million level, including \$1.8 million for the charter of a dedicated research vessel.

<sup>10</sup> In addition to the U.S. program, Argentina, Australia, Brazil, Chile, France, Federal Republic of Germany, Japan, New Zealand, Poland, South Africa, Soviet Union, and the United Kingdom implemented research programs which complemented the U.S. program.

<sup>11</sup> Testimony of Bruce Manheim, Environmental Defense Fund, before the House Appropriations Subcommittee on Commerce, 1987.

Because these early studies confirmed low standing stocks of fish, the traditional harvesting areas surrounding the South Shetland and South Orkney Islands in the Southern Atlantic Ocean were closed to finfishing. Attempts to reopen these areas have not been successful. However, unless fish stock surveys are completed in the future, we could lose the agreement to keep these areas closed. It will only be due to the consistent and vigilant application of the results of the research cruises that consensus will be maintained to prohibit or limit fishing in these and other areas.

### III. Importance of CCAMLR

The importance of CCAMLR and the U.S. AMLR Program is in their ability, over a decade's time, to monitor changes in the Southern Ocean ecosystem. Whether fluctuations in the marine environment, including changes in marine populations, can be attributed to human or natural events, can only be determined by research which continues over a long time series. The only way to distinguish between human-induced and natural variability in the Southern Ocean ecosystem and in the physical environment, is by collecting data over a long time series.

Results from the past few years are illustrative: a shortage of krill in 1990 was implicated in the decline in two indicators of krill predator (seals and penguins) health--the number of live births, and the survival rate of young. This was followed by an unusually good year for krill, while results from 1992 indicated another poor year for krill.

Preliminary results from this past season replicate results from 1990: total krill appear to be 20% of their 1993 level, although krill-dependent populations of seals and penguins appeared healthy.<sup>12</sup>

Whether these observed changes are the result of natural fluctuations or due to the krill fishery is still not known.

These results highlight the challenges facing CCAMLR, and the need for continued research: to establish a relation between changes in the marine ecosystem and external vs. natural impacts, and to determine what is overfishing. They also emphasize that not enough is known about krill demographics to understand the annual recruitment of krill populations. More research is needed on krill population dynamics, sustainable recruitment levels and the variability associated with environmental versus human-induced changes.

Commercial fishing in the Southern Ocean is expected to grow, with resultant environmental pressures. It is believed that the Southern Ocean is the "last remaining major source of marine protein, [and this will lead to] considerable harvesting activity in the Southern Ocean, which will require, if it is to have a chance of being sustainable, a massive extension of current ecological research..."<sup>13</sup>. An article in National Fisherman states that the "Southern Ocean contains an astonishing motherlode of [krill]..." and that "some experts...expect a real firefight over conservation if a strong market ever develops for krill"<sup>14</sup>.

Proper implementation of CCAMLR is necessary to permit sustainable management of these fisheries without negatively impacting the ecosystem.

<sup>12</sup> Marine Fisheries Service, Fisheries Science Center News Release, NOAA scientists find Antarctic krill populations far below normal, April 11, 1994.

<sup>13</sup> Drewry, D.J. 1993. The future of Antarctic scientific research, Polar Record 29:37-44.

<sup>14</sup> National Fisherman, Distant waters: U.S. fleet enters the global race for better fishing grounds. May 1993.

#### IV. Importance of the AMLR Program

1. The AMLR Program initiated the first ecosystem monitoring program which studied the relationship between the seal and bird predators on Seal Island, and the krill and oceanographic features of the waters surrounding Seal Island.

The U.S. developed the hypothesis that studying the interaction between krill predators and their prey would facilitate understanding natural krill populations. The U.S. is the only nation conducting these studies. In fact, an interagency review panel noted that "AMLR is focussed on tasks that are essential to meeting the ecosystem-oriented objectives of CCAMLR, ... and are not being done by other Parties"<sup>12</sup>.

2. Consensus to initiate the precautionary cap on krill fishing was reached in large part because of research results generated by the U.S. AMLR program.
3. In response to a U.S. fisherman applying for a permit to initiate a crab fishery in the Southern Ocean, the U.S. took the lead in ensuring that the fishery is developed using a conservative approach by developing a model research and development plan. The crab fishery was used as an example of how to manage a new fishery, and set a precedent for other new and developing fisheries. U.S. scientists hosted a CCAMLR workshop on crabs to determine how to maximize data collection. Recommendations from the workshop were adopted at the last CCAMLR and will be implemented during the upcoming fishing season.
4. In response to a U.S. initiated proposal, measures were adopted which defined "new" and "exploratory" fisheries and articulated procedures for conducting them. These measures are necessary to assure that fisheries develop slowly and in concert with the acquisition of biological and demographic data. Prior to this, fisheries were allowed to develop until the resource was depleted.
5. U.S. AMLR personnel initiated the CCAMLR Inspection Program of commercial boats in the 1990/91 season with the boarding of a Japanese vessel, and carried out inspections during the past two seasons; NOAA personnel boarded a Russian vessel in the 1991-92 season, and a Polish vessel during the 1992-93 season. This set a precedent for other countries: the U.K. conducted its first inspection in the 1991-92 season. (The CCAMLR Inspection Program seeks to measure compliance with CCAMLR conservation measures by allowing for unannounced checks of commercial boats which are engaged in harvesting activities.)
6. This past season the U.S. implemented the CCAMLR Scientific Observer program by placing an observer on board a Russian vessel, as part of the CCAMLR Observation and Inspection program, and arrangements have been made to place an observer on board a Japanese vessel in the upcoming season. The Scientific Observer program is distinct from the Inspection Program, in that observers are placed on board commercial fishing vessels under a bilateral agreement, for all or part of the fishing season. Observers enable compliance monitoring with the conservation measures adopted by the CCAMLR Commission. They provide verification of the fish species caught, fishing methods used, catch data, and accurate and timely reporting to the CCAMLR Secretariat.

One of the biggest obstacles to the adoption of conservation measures is lack of data submission. Without this data, the Scientific Committee is unable to provide the best scientific advice on the state of a fishery or fish stock. Without data to back up claims of overfishing the fishing nations can argue that there is no proof of overfishing, and can attempt to increase allowable catches, and open previously-closed areas to fishing.

7. The AMLR Program has encouraged collaboration with scientists of many nations. This bilateral cooperation encourages scientists to participate in the land and sea-based aspects

of the Program. Politically, this cooperation enhances U.S. interactions in other international fora, not only within CCAMLR and in the Antarctic Treaty System.

8. Stable food resources will need to be found to meet the demands of a world population in exponential growth. The remarkable productivity of the Southern Ocean underscores its potential to sustain commercial fisheries. The U.S. crab fishery may expand substantially. An Australian company might begin harvesting up to 80 tonnes of krill. CCAMLR was established to sustainably manage Southern Ocean fisheries. Effective implementation of CCAMLR will ensure effective management of these fisheries.
9. Research results from the U.S. AMLR program have begun to highlight the impacts of global climate change and ozone depletion on the earth's oceanic and atmospheric systems.
10. Research results are critical in helping to implement the Protocol to the Antarctic Treaty on Environmental Protection.

#### V. The Role of AMLR in Global Change Research

Antarctica is the world's last unspoiled wilderness continent. Because of Antarctica's central role in regulating global environmental processes, impacts there could adversely affect the world's atmospheric and oceanic systems. The nearly pristine nature of the region provides unique opportunities for research that is crucial to the understanding and monitoring of global change phenomena, including global warming, ozone depletion, and atmospheric pollution.

The importance of Antarctica as a platform for globally significant scientific research has been recognized in the international global change program, the International Geosphere-Biosphere Program, and the national global change program, GLOBEC. The report from a GLOBEC workshop held in the Spring of 1991 states that "the Southern Ocean is...an ideal region in which to study marine animal populations in the context of global climate change."<sup>16</sup> Research results from the U.S. AMLR program have begun to highlight the impacts of global climate change on the earth's oceanic and atmospheric systems.

The AMLR program is based on the hypothesis that the physical features of the Southern Ocean constrain the productivity and spatial distribution of krill, *Euphausia superba*, the basic food chain component. The spatial distribution of krill then affects the life history of land-based krill predator populations (seals, penguins, and other marine birds) during their reproductive seasons.<sup>17</sup> Physical features in the ocean, e.g., water mass fronts, sea ice, and upper layer mixing, contribute to an understanding of the Southern Ocean ecosystem and its productivity. Since these features are influenced by global climate and wind patterns, changes can be detected by studying the Southern Ocean ecosystem.

The Southern Ocean ecosystem is also important in detecting the potential impacts resulting from the ozone "hole" over the southern hemisphere. An article in USA Today<sup>18</sup> reported on preliminary research results which implicate increased ultraviolet radiation in a drop in ocean

<sup>16</sup> Review of the United States Antarctic Marine Living Resources (AMLR) Research Program, *Ibid.*

<sup>17</sup> GLOBEC Workshop on Southern Ocean Marine Animal Populations and Climate Change. Report #5, November 1991. Joint Oceanographic Institutes, Inc., Washington, D.C.

<sup>18</sup> AMLR 1990/91 Field Season Report, J. Rosenberg and R. Hewitt, eds., Southwest Fisheries Science Center, Antarctic Ecosystem Research Group, Administrative Report LJ-91-18, June 1991.

<sup>19</sup> Friend, T. Hole in the sky provides year of firsts. USA Today, March 9, 1993. p. 1.

plankton activity; phytoplankton are free-floating plants at the bottom of the Antarctic food chain. This decreased activity could alter the dynamics of the Antarctic marine ecosystem.

#### **VI. The Role of AMLR in Implementing the Antarctic Environmental Protocol**

The signing in 1991 of the Protocol on Environmental Protection to the Antarctic Treaty was a great victory for Antarctic environmental protection. The Protocol advances basic U.S. goals of protecting the Antarctic environment, while preserving the unique opportunities the region offers for scientific research of global significance.

We anticipate that the U.S. will pass implementing legislation during this present session of Congress. Once the Protocol is ratified domestically, the U.S. will need to put in place programs necessary for its implementation. Because AMLR has been collecting data for many years, research results could help implement the Protocol.

A major component of the Protocol is the Environmental Impact Assessment Annex, which obligates the Treaty nations to assess the impacts of their activities on the Antarctic environment before proceeding. In order to fulfill this obligation, a monitoring program is needed that will facilitate decision making based on environmental impacts. Research results generated since AMLR's inception contribute to the baseline data necessary for deciding if planned activities should go forward.

#### **VII. FY 95 Appropriation Request and Long-term Priorities**

For Fiscal Year 1995, \$4 million will be needed to continue the U.S. AMLR Program. A \$4 million appropriation is justified for the following reasons:

1. In order for the U.S. AMLR program to continue its two major research components, a minimum of \$2 million is needed. The land-based ecosystem monitoring program at Seal Island monitors the reproduction and foraging behavior of the primary mammalian and avian krill predators, while the ship-based studies monitor the physical oceanography and spatial distribution of krill in the Southern Ocean contiguous with, and extending beyond, Seal Island. The additional \$800,000 could fund the following:

- a. **Crab fishery.** As mentioned above, in response to the initiation of an Antarctic crab fishery by a U.S. fisherman, the U.S. took the lead in developing a research plan which will ensure that the fishery is developed conservatively. This experimental fishery plan was adopted by CCAMLR and will be used by all crab fishers in Antarctic waters. As part of this plan, the U.S. is committed to monitoring the U.S. fishery effort. This includes collecting data aboard the vessels, completing analyses of the status of the Antarctic crab stocks and providing scientific advice to CCAMLR, based upon stock assessments, so that catch limits and other management options may be put in place. Collection of this data is necessary to allow CCAMLR to develop this fishery in a conservative manner to ensure stocks will not be depleted.

Because this is a new U.S. effort in Antarctic waters, the AMLR Program does not have sufficient resources to undertake this research.

Anticipated funding needed for staff to collect data and conduct analyses (including travel, equipment and supplies): \$114,000.

- b. **Assessment of Antarctic Fish Stocks.** During the last two decades, finfish stocks along the Antarctic Peninsula have been over-exploited. Beginning in 1990, CCAMLR prohibited all finfish fishing in this area until stocks had recovered. The U.S. led the effort to protect these stocks. However, there has been no new information collected on the status of the finfish stocks to base stock assessments. There is an urgent need to conduct bottom trawl surveys of these fish stocks to determine if the fishery should

remain closed or if catch levels are appropriate. Without this new information, the fishing nations are likely to object to keeping this area closed to fishing.

If funds are provided for this, the U.S. would be able to conduct a bottom trawl survey of finfish stocks in the Antarctic Peninsula. The resultant information will allow CCAMLR to set catch limits or continue closure of the area to allow the stocks to recover so that a sustainable yield can eventually be taken.

Anticipated funding needed for a ship charter and staff to collect data and conduct analyses (including travel, equipment and supplies): \$618,000.

- c. **Ecosystem Modeling.** Ecosystem management is the principle tenet of CCAMLR. It believes that the harvesting of living resources should be managed with the goal of preserving species diversity and stability of the entire marine ecosystem. Of the 21 member nations, the U.S. is only one of two nations which is conducting the research designed to describe the functional relationships between various components of the marine ecosystem. During 1991, a review of the U.S. AMLR Program by outside scientists recommended that the U.S. begin to model predator/prey interactions. During FY93, the AMLR Program used Department of State funds to begin the modeling. However, the process will require effort over several years to fully integrate predator, prey, environmental, and fishery information. The Program's present budget will not allow continuation of this effort.

The development of this model will allow CCAMLR to investigate predator/prey interactions under several fishing levels, and determine levels at which the fishery should be regulated either by reducing catch or total closure of areas.

Anticipated funding needed for a ship charter and staff to collect data and conduct analyses (including travel, equipment and supplies): \$183,000.

- d. **Ice Seal Research.** Of the six species of seals found in the Antarctic region, crabeater seals are the most important ecologically because of their great abundance and specialization as krill predators. Throughout the Antarctic, crabeater seals alone are estimated to consume more than three times the total amount of krill presently eaten by all species of whale combined. To evaluate management and conservation options, CCAMLR needs information about crabeater feeding and reproductive ecology, abundance and distribution. Crabeater seals can be studied using satellite telemetry, i.e., placing satellite transmitters on crabeater seals.

During FY95, the U.S. might be conducting an inspection of bases in Antarctica using a U.S. Coast Guard icebreaker. The icebreaker would provide an ideal platform from which to conduct a survey of pack ice seals and to place transmitters on crabeater seals at selected locations around the continent. This would allow the movement and distribution of crabeater seals will be monitored during the Austral winter. This information is vital as a first step in understanding the ecological role of crabeater seals and the role they play in the Antarctic ecosystem.

Anticipated funding needed for a ship charter and staff to collect data and conduct analyses (including travel, equipment and supplies): \$284,000.

- 2. **Charter of an ice-strengthened vessel (\$2M).** The AMLR Program is currently supported by NOAA's R.V. Surveyor. Current plans are for the AMLR Program to have use of the Surveyor for the upcoming season. If the Surveyor becomes unavailable, funds need to be appropriated to charter a replacement vessel. Obviously, without a vessel capable of transiting in Antarctic waters, AMLR cannot continue its research program. A \$2 million appropriation is sufficient if the AMLR Program continues to be supported by the R.V. Surveyor. If the Surveyor, or another vessel, is not available, an additional \$2 million would be necessary to charter a vessel.

The U.S. needs to develop a longer-term perspective on budgetary commitments for Antarctic research and monitoring programs to allow agencies and scientists to plan five to ten years ahead. This will allow the U.S. to protect its political and environmental interests in Antarctica, and to maintain its leadership role in marine living resources research.

In light of the global threats posed by ozone depletion and climate change, it is particularly appropriate to re-examine priorities. In this context, a thorough review of all components of U.S. involvement in Antarctica, including U.S. Antarctic science and monitoring programs, is needed.

For example, NSF's basic research program has many long-term programs in place, which contribute to the body of knowledge on the Antarctic environment. The U.S. AMLR Program is another source of crucial data, as is NOAA's research on depletion of the ozone layer. A number of agencies and bodies are involved in the International Geosphere-Biosphere Program's research program on climate change, which includes a large research component for the Antarctic and the Southern Ocean. The chief scientist of AMLR is on the advisory panel for "Southern Ocean GLOBEC."

### VIII. CONCLUSION

Recognizing the need for directed as well as basic research, the Antarctic Marine Living Resources Convention Act mandated that NOAA develop and implement a directed research program to support and facilitate implementation of CCAMLR. Funding for this program has been limited, making it impossible to develop an effective, long-term program plan, to coordinate effectively with the National Science Foundation's basic research program in Antarctica, or to become involved in multi-national programs requiring significant advance planning and commitment of resources. Without a commitment of adequate funding, it is also impossible to charter a suitable research vessel for the upcoming season; funds are not usually committed until the start of the Antarctic field season.

Increased pressure on the Southern Ocean could lead to a depletion of marine resources. CCAMLR is the only international agreement designed to manage the remarkable productivity of the vast Southern Ocean. To be effective, CCAMLR must be implemented properly; the AMLR program is critical to the successful implementation of CCAMLR.

The results of the research undertaken through NOAA's Antarctic Marine Living Resources Program have enabled the U.S. to argue persuasively for the adoption of conservation measures aimed at limiting the harvesting of exploited species. In the absence of the U.S.-directed research program, the major fishing nations in the Southern Ocean will continue to resist implementation of strict conservation measures.

Inadequate funding threatens to compromise the lead role that the U.S. has played over the past thirty years, in the Antarctic Treaty and in the Antarctic Treaty System, in developing ecologically sound and internationally acceptable approaches to Antarctic issues.

It is critical for Congress to consider CCAMLR and AMLR as a part of a total U.S. Antarctic policy, and to fund this vital scientific program at a level that will ensure its continuity and ability to collect data that will enhance the protection of Antarctica's environment and ecosystems.

Increasing the FY95 appropriation for AMLR will ensure that the U.S. can continue to argue persuasively for measures that protect Antarctic marine life. If the AMLR Program is allowed to decline while the fisheries-oriented scientific programs of other countries increase<sup>19</sup>, the United States' ability to influence long-term international conservation efforts will diminish.

<sup>19</sup> 15 other nations have marine research programs in the Southern Ocean: Argentina, Australia, Brazil, Chile, France, Germany, Korea, Italy, Japan, Poland, Russia, South Africa, Spain, Sweden and the United Kingdom.

We do recognize that budgetary constraints may make it difficult to increase funding for AMLR for FY95. However, regardless of the level of funding, it is critical that Congress includes language in the appropriations bill which specifies that these funds are for AMLR. After successfully getting AMLR in the President's FY94 budget request, NOAA diverted some of its funding to make up budget shortfalls in other programs. Language must articulate that funding for AMLR is non-discretionary. The AMLR Program is already running on very limited funds; additional decreases could severely diminish the effectiveness of the Program. Language also needs to specify that a boat must be available for AMLR.

Fulfilling U.S. obligations under CCAMLR will send a strong message about our desire to maintain the Antarctic as a region dedicated to science and other peaceful uses, and to minimize harm to the environment. It will reflect positively on our commitment to the Antarctic Treaty System, and will preserve the leadership role of the United States in marine living resources research.

While we recognize that Congress must make difficult budget decisions, it is important not to overlook the value of the U.S. AMLR Program. The modest allocation of funds that we are requesting for investment in Antarctic marine research will go a long way toward addressing critical environmental and political issues that the United States faces in Antarctica. And for future generations, investing in this cost-effective program will be more important than the modest savings gained through its elimination.

For these reasons, we respectfully request this Subcommittee to approve an appropriation of \$4 million to support NOAA's Antarctic Marine Living Resources Program.

#### STATEMENT OF AMERICA'S PUBLIC TELEVISION STATIONS

Mr. Chairman, and members of the subcommittee, on behalf of America's 200 local, community based public telecommunications centers, thank you for the opportunity to submit testimony on appropriations for the Public Telecommunications Facilities Program (PTFP) and the Telecommunications and Information Infrastructure Assistance Program (TIAP) at the National Telecommunications and Information Administration. Public television requests an appropriation of \$35 million for PTFP and supports the Administration's request for \$100 for TIAP for FY 1995.

Public television represents the first stage of a national information infrastructure. It is in place and in operation today.

Public television is more than the wide array of television programs seen on your local PBS station. It is an institution consisting of local, community-based telecommunications centers, many organized into state networks. These centers, financed largely by their local communities, possess the expertise to use the most appropriate technology to serve their respective community's educational and informational needs: video and audio, data, graphics and text; delivered by broadcast, cable, microwave, telephone lines, computer disk, telecomputing, interactive videodisc, print or in person; and complemented with support materials to aid its effective use with teachers, parents and students in the school, home or other community facility. The centers have achieved this through applying talent, know-how and the ability to adapt technology up to the limits of their available resources.

Public television's reach and access are unrivaled. Public television can reach out to all Americans, offering equal access to lifelong learning—the "haves" and the "have-nots," urban populations and rural citizens, the "underserved," the "unserved" and cultural minorities. Ninety-nine percent of U.S. television households receive this educational programming; 160 million people watch each month; 30 million K-12 students in 3 out of 4 schools have access to instructional programming; and 2 out of 3 colleges enroll a total of 300,000 college students per semester in telecourses for credit through their local stations.

Over the past 30 years, Congress has invested in a public telecommunications infrastructure through the PTFP. This federal investment has been matched by local and state contributions to build a coast-to-coast non-commercial education infrastructure. The total replacement value of the public television industry's broadcast facilities and equipment (excluding buildings, land, furniture or fixtures) is currently over \$1.79 billion. A continuing modest, annual federal investment will help guarantee that free, over-the-air noncommercial educational television continues to be available to all Americans regardless of their ability to pay.

However, the Administration's budget request of \$10.74 million for the PTFP is a little too modest — and simply not adequate. For FY 1993, NTIA awarded \$8.3 million to public television alone for grants categorized as "essential replacement." That means that without the equipment funded by PTFP money areas would lose public television service. If federal funds cannot be used to leverage local and/or state contributions, communities across the country will soon begin to lose their access to public television services as reach and universal access are compromised by inadequate capital replacement.

Public television currently provides a programming service committed to educating and informing the public in sciences, geography, literature, the arts, math, public affairs and culture. Every month, 75.6 million American households tune into their public television stations—a service which the American public values, in survey after survey, stating that it is more "important," "informative," "interesting" and "educational" than other media choices.

Federal support remains essential to preserving universal access to the opportunity for lifelong learning through a high quality noncommercial television service. Public television stations match every federal dollar with five to six dollars from other sources, yet federal dollars remain critical in challenging other segments of the community to support this public service. Federal funding also provides unrestricted seed money which can allow local institutions to gain access to the best that the nation—rather than just the community—has to offer. The most critical need is to sustain the national-

local partnership which allows local communities to use telecommunications to address their own educational, cultural and information needs.

Addressing local needs is primary to the mission of public broadcasting. Examples of local problem solving are outlined in the following summaries of public broadcasting initiatives.

- ◆ **Contributing to adult literacy.** With increased funds, public television can expand efforts to encourage and motivate adults to learn to read and then, through televised classes, provide the necessary instruction in the privacy of their own homes. Also using public television, local stations can mobilize volunteers to assist in the personal mentoring which is so important to adult literacy training. *Project Literacy US, (PLUS)*, in its eighth year, has made a measurable difference in assisting those needing literacy training.

**Example:** Arkansas's AETN presented "Sign up for Success: Adult Education Night 1993," a live, three-hour program designed to increase enrollment and to inform viewers of continuing educational opportunities available to them. AETN's Adult Education Literacy Center broadcasts lessons to make it possible for adults to obtain their Arkansas high school diplomas or enroll in beginning reading or math. Students study at home and receive tutoring, when needed, from their instructor, who also monitors their progress.

- ◆ **Providing job training and sharing information to find new opportunities in the work force.** Public television's cooperative work with business and education leaders to use video-based vocational and instructional courses to train workers, teachers and demobilized military personnel can be expanded with additional funds. Training can be conveyed directly to the workplace or other sites, as PBS and stations are already doing in selected cities through The Business Channel.

**Example:** South Carolina ITV pioneered the use of video teleconferencing for correctional managers and line officers. Its first training conference in 1991 linked a FBI hostage negotiator with more than 1,000 corrections officers, law enforcement personnel and criminal justice students gathered in 17 cities across the state, at a cost of 39 cents per student. Since then, the S.C. Department of Corrections has used the teleconference resources of SCETV to reach and inform more than 14,000 trainees.

- ◆ **Enhancing educational use of technologies.** Public television adapts new technologies for educational use; makes them accessible to schools, teachers and learners; creates programs that expand the use of interactive educational technologies; and trains teachers to use these new technologies effectively. Technological advances have had a major impact in increasing the educational effect of television. Merely one example is the intriguing interactive version of *The MacNeil/Lehrer NewsHour* which has been developed in conjunction with Apple Computer Corporation. Learners can watch full frame video and then

explore topics raised in the news program through interactive video and databases.

**Example:** On behalf of the state of Iowa, Iowa Public Television operates the Iowa Communications Network. Taking advantage of the public television infrastructure already in place, this statewide fiber optic telecommunications network serves colleges, universities and educational and government agencies. Last year, the network received \$8 million in funds to provide equipment to 103 classrooms around the state and to aid in curriculum development and teacher training. When complete, the network will connect over 500 sites including all Iowa school districts and about 100 libraries. This spring semester, the network will carry 146 interactive classroom courses, and 172 one-time events, for a total of 31,000 hours of programming. Each site pays only 5 dollars per hour to use the system.

- ◆ **Assisting in times of disaster.** Public television stations are valuable community problem-solving partners, able to respond quickly to local needs and local emergencies. In the midwest, for example, public television stations worked singly and together this year to bring flood information and assistance to their communities, and to the nation.

**Example:** During Kentucky's most recent winter weather emergency, all interstate highways were closed for days. Telephone and cable systems were down for extended periods of time. Kentucky Authority for Educational Television's (KET) broadcast and satellite operations were the only information highways in operation — locally or statewide — with live hourly feeds from central emergency centers to the citizens of Kentucky and surrounding states.

Public television is a national asset. A continuing modest, annual federal investment will help guarantee that free, over-the-air noncommercial educational television services will be available to all Americans regardless of their ability to pay. America's communities, through their local public television stations, urge the committee to appropriate \$35 million for the Public Telecommunications Facilities Program for FY 1995.

Public television also supports the Administration's request for \$100 million for the Telecommunications and Information Infrastructure Assistance Program (TIAP). The concept of a seamless web of communications networks that will put vast amounts of information at users' fingertips is similar to the underlying principles that have inspired the technological advances of public television.

Public television applauds the requirement for public-private partnerships under the TIAP. Public broadcasting has already forged numerous public-private partnerships with community and business groups. These partnerships have become the focus for developing community action plans to address issues such as drug abuse, literacy and child abuse. But in order to maintain and expand the private commitment to such vital efforts, we must

show that the public commitment, as represented by the actions of Congress, remains strong.

STATEMENT OF DR. FRANK MERTZ, PRESIDENT, FAIRLEIGH DICKINSON UNIVERSITY

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to submit testimony for your consideration. Through this testimony, I would like to request your support for a science-technology initiative being undertaken by Fairleigh Dickinson University that will have a great impact on water quality issues in the State of New Jersey while providing technically-trained scientists and engineers with entrepreneurial and business skills necessary to commercialize new environmental technologies, products and services. Because of the entrepreneurial nature of this initiative, in which the Department of Commerce and the Small Business Administration have such vested interest, I respectfully request that your subcommittee include \$8.5 million in support of the University's plans to establish the River Laboratory at Teaneck/Hackensack and the related Center for Advanced Technology Management at the University's Madison campus.

The Emerging Environmental Technologies Industry in the Global and Local Marketplace

Technology has traditionally given U.S. industry an edge in world markets. It has been a major source of our export strength, made a critical contribution to U.S. productivity growth and been a driving force behind increases in the American standard of living. In recent years, however, foreign competition has challenged U.S. leadership in technology. In industry after industry, foreign competitors have moved into markets developed and once dominated by American companies.

The challenge to American technological leadership stems from a clear trend: governments in other nations have singled out technology as a high priority and facilitated industry efforts to rapidly commercialize new innovations. Instead of trying to match America's scientific expertise, many foreign rivals have focused on acquiring new technologies, rapidly translating them into commercial applications and making incremental improvements in response to market signals.

To be competitive in today's domestic and international markets, it is imperative to improve America's ability to move ideas swiftly from the laboratory to the plant floor and, subsequently, to the marketplace. Since the early 1970s, FDU has worked to address these very concerns through the development of programs addressing the needs of New Jersey's pharmaceutical industry. Often referred to as the "Nation's Medicine Chest," New Jersey is home to many pharmaceutical companies including Johnson & Johnson, Merck, Bristol-Myers Squibb, and others. Responding to the industry's management needs, FDU developed an MBA program in Pharmaceutical-Chemical Studies, attracting many students who had already completed masters and doctoral degrees in scientific disciplines. Over 500 students have graduated from this program which is still the only one of its type in the U.S. The success of the Pharmaceutical-Chemical Studies program prompted the College to develop an MBA in the Management of Technology in 1988. The MOT program has been designed to address a serious national need for retraining technically-oriented professionals in management.

Now the University is preparing to expand its focus on the application of technology management to other high growth business sectors, including the environmental industry through the establishment of a Center for Advanced Technology Management. Environmental products and services are emerging as a major worldwide market, estimated at \$200 billion per year and expected to grow 5 percent annually. So far, most of the market is here at home; yet with the growing awareness of the human effects of pollution in Eastern Europe and elsewhere, this is an industry with the potential to span the globe.

In the meantime, however, the industry continues to grow in the U.S. In 1989, pollution control devices alone accounted for \$115 billion in sales. Others estimate that the domestic market for environmental industries provides \$132 billion to the economy annually. Further, for every \$100 billion spent on pollution control devices, 3 million jobs are supported or created. By the year 2000, analysts expect U.S. industry to spend \$20 billion solely on improved air pollution control systems.

Of great concern, however, is the current lack of emphasis on the support of this industry. At this time, 70 percent of pollution control devices are imported. Without providing assistance to small U.S. companies and entrepreneurs who are trying to commercialize their products, America will once again have allowed foreign competitors to take the lead in a highly profitable, technology-driven industry. Without the skills integral to turning an idea into a revenue-producing business, we cannot create new jobs, improve the economy or maintain global competitiveness.

#### The Center for Advanced Technology Management

In support of this objective, Fairleigh Dickinson University intends to establish the Center for Advanced Technology Management, which will be dedicated to the training of scientists and engineers in the management of technology as it applies to the development, commercialization and application of new, innovative technologies and processes, such as those that are integral to the development of pollution prevention and environmental remediation technologies, as well as in other technologically-driven industries.

FDU's existing and innovative Management of Technology program was designed to prepare select technical professionals and technically-trained executives for broader senior management responsibilities in the technology-driven contemporary business environment. It recognizes that major new demands are being placed on managers in this environment and acknowledges the importance of technology in our economy. The program attracts founders of free standing research and development start-up companies, managers of corporate-sponsored ventures and technical managers preparing for senior management responsibilities. The program includes the basic subjects offered in the traditional MBA curriculum, blended with several courses to satisfy the particular requirements of those who must transform creative scientific thought into pragmatic action within the constraints of an increasingly competitive environment. Combined with the added resources of the new River Laboratory, as well as existing resources at the University's Center for Entrepreneurial Studies, the University will be making great strides toward supporting State and industry goals for technology development.

Enabling the University to continue its role in furthering the management of technological advances in New Jersey industries, the Center will provide the continued training necessary to assist these executives in managing the highly complex research and development of new products and services, while also preparing them to address issues of licensing, marketing and commercialization. Such training will play an important role in ensuring that the State can begin to repair its economy and environment, and that such new industrial endeavors can compete in an increasingly global economy.

Specifically, the new Center for Advanced Technology Management will:

- Provide state-of-the-art classroom facilities capable of supporting the technological utilities required to expand the Management of Technology programs to new sectors. These expanded programs will directly apply to the special needs of managing new technologies.
- Assist technology-driven "start up" and established companies in developing business plans and managing the progress of their research and development efforts. It will provide the physical resources required to integrate the Management of Technology program with the activities of FDU's River Laboratory, as well as its existing Center for Entrepreneurial Studies. These new courses will address technology management

issues in the context of these smaller "start up" companies, as well as larger companies.

- Provide electronically-equipped conference facilities for courses focusing on technology management. FDU's current teleconferencing equipment will be incorporated into the center, linking the Madison facility to the laboratory facility. Funding will support FDU's fiber optic network linkage between campuses.
- Provide laboratory and administrative facilities in support of research efforts focusing on the changing roles of technology management.
- Produce a *Journal of Technology Management*, similar to the *Journal of Pharmaceutical-Chemical Business* which is published by FDU and has a current circulation of 10,000. The new journal would disseminate the results of faculty analysis of and research on technology management issues.
- Encourage regular interaction between students and faculty with representatives of New Jersey's environmental industry. Both the State and FDU will benefit from increased resource availability.
- Allow FDU to host regional and national meetings on energy technology management in fully equipped conference facilities.
- Provide adequate facilities for administrative support of the expanded programs.

#### The River Laboratory at Teaneck/Hackensack

To bolster environmental resources which may be required by the Center for Advanced Technology's students, the University also is planning to establish a River Laboratory at its Teaneck/Hackensack campus. The proposed River Laboratory will emphasize the growing national and State priority to protect and repair the environment. With the cooperation of the highest levels of state and local government, the University, and hopefully the Federal government, the Laboratory will be dedicated to research and study of the Hackensack River.

In addition to its importance to the Center for Advanced Technology Management's emphasis on the environmental technologies industry, we can learn a great deal from the study of the Hackensack River. From colonial times, it has been important to the development of Bergen County. Until the 1800s, lumber, iron and farm products were carried to markets downriver from as far north as Oradell. However, the activity on the Hackensack River over the years has taken its toll. Present in the muds are things like cadmium, pesticides and herbicides. There is an excessive amount of nutrients because of sewage treatment and runoff liquid fertilizers from lawns. There's lead in some of the sediments, PCBs, and dioxin sludge. Additionally, the construction of new developments downstream have led to a higher occurrence of flooding at points upstream. Clearly, the decline of the Hackensack River provides a natural laboratory setting for students focusing on the commercialization of remediation technologies.

The facility has been designed to allow several types of environmental studies to occur simultaneously, and the University's curriculum will encourage students to develop a greater understanding and appreciation for the impact of pollution on their environment. The Laboratory will be used by University students taking various courses in Chemistry, Biology, Physics, Computer Science and Engineering Technology. Additionally, the University plans to develop a graduated sequence of analytical equipment kits; students will be assigned a laboratory project, collecting samples, performing analyses and preparing reports on their studies. Specifically the facility will include:

- Three research laboratories will be provided for the sole purpose of conducting research and monitoring the river's contents by the university's faculty and visiting

scientists. Samples will be obtained by connections directly from the labs into the river's water and bed.

- An instructional laboratory will also be housed in the facility, providing students with hands-on laboratory experience.
- A multi-purpose room with a seating capacity of 120 people shall be provided for lectures, film/slide presentations and teleconferencing to FDU's Madison campus and to those interested in the community.
- A reading room dedicated to environmental-specific periodicals will act as a study area for students, faculty and the interested public.
- An observation deck with floating docks shall be provided around the exterior for examining changes in the river.

These new initiatives will strengthen New Jersey's economy by helping to define new markets and helping them to compete and to substantially contribute to the U.S. economy while at the same time contributing to the environment. By expanding its current technology management programs and applying them directly to management issues facing pollution prevention and remediation initiatives, FDU will provide a model program which demonstrates how environmentally-focused, technology-driven ventures can become and remain competitive in an increasingly global economy. Further, paired with this and other University initiatives, such as the existing Center of Entrepreneurial Studies, the Laboratory will have a profound affect on the availability of environmental resources and help promote new environmental technology business ventures in the State and region.

#### Request for Federal Partnership

In support of this initiative, FDU is pursuing a private-state-federal partnership to help cover a portion of the costs of construction and equipment at the laboratory, estimated at \$2 million, and at the Center, estimated at approximately \$11 million dollars; both projects will cost an estimated \$13 million. FDU has made a commitment to raise the remaining funds from state sources and private/corporate contributions, as well as to make an in-kind contribution of approximately \$4 million dollars.

FDU is requesting that this subcommittee include \$8.5 million dollars in its FY 1995 appropriations bill in support of this regional and national model aimed at ensuring technological and economic competitiveness. This funding will be used for design and construction of a laboratory facility on the Teaneck/Hackensack campus, a new facility on the Madison campus, renovation and rehabilitation of additional laboratory space located on the Madison campus, purchase of equipment, site preparation and programmatic development. As indicated above, other funding sources will go toward the development of these facilities as well, including State funds and private and corporate contributions.

Thank you for your consideration of this initiative.

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#### STATEMENT OF KEITH G. BRISCOE, PRESIDENT, BUENA VISTA COLLEGE

Mr. Chairman and distinguished members of the Subcommittee, I am pleased to have the opportunity to submit testimony to the Record of the Senate Appropriations Subcommittee on Commerce, Justice, and State, the Judiciary and Related Agencies on behalf of Buena Vista College in Storm Lake, Iowa.

During my testimony, I would like to focus on the critical need for close collaboration between government, business and higher education as we as a nation move towards the construction of an advanced National Information Infrastructure (NII). As the "Agenda for

Action" published by the Information Infrastructure Task Force emphatically states: All Americans have a stake in the development of the Information Superhighway, and all Americans deserve access to information resources available at affordable prices. I personally believe that nowhere is the need greater for accessing new information technology resources than in rural America.

Information is one of the nation's most critical economic resources, for service industries as well as manufacturing, for economic as well as national security. And the knowledge economy continues to grow. By some estimates, two-thirds of U.S. workers are in information-related jobs, and the rest are in industries that rely heavily on information. Consequently, a new set of ground rules has been created born of the advent of the Information Age. Today, the value of the products and services we exchange is increasingly a function of their information content and the knowledge used to create them rather than the raw materials used to produce them.

Because of this shift, the ability to easily access and share information and stimulate the creation of new ideas is essential to maintaining a strong economy, developing world class industries and enhancing the quality of life for every citizen. Unquestionably, the promotion of information technology now underway will initiate the commencement of an information revolution that will dramatically transform the manner in which people live, work, and interact with one another.

Information technology will enable people to live almost anywhere without sacrificing opportunities for useful, challenging and fulfilling employment. Future workers will telecommute to their offices through an electronic highway. Further, the best schools, teachers, and academic courses will be available to all students, without regard to geography, distance, resources, or disability. The vast resources of art, literature, and science will be available everywhere, not just in large institutions or big-city libraries and museums.

The benefits that will accrue from the National Information Infrastructure are multitudinous. If utilized properly, the increased networking capabilities of the information superhighway will provide all Americans with a fair opportunity to go as far as their talents and ambitions will take them. Most Americans are well acquainted with the fringe benefits which the NII will provide them: ability to access the latest movies; play our favorite video games; bank or shop without having to leave our homes; and so on. All of these features are positive and worthwhile, and they will be enthusiastically received by many of us.

However, Mr. Chairman, I have a deep and abiding concern that the element that will benefit the most from new technology will be given a back seat -- education. America has an opportunity, through the NII, to chart a course for education that will reverse the decline in literacy skills, and stem the tide of school drop-outs. 25 percent of students nation-wide no longer complete high-school, a figure which rises to 57 percent in some large cities. Currently, 90 million adults in the United States do not have the literacy skills they need to function in our increasingly complex society.

According to a December 1992 report to the Iowa Utilities Board and Department of Economic Development recently released by Arthur D. Little, Inc., significant questions have arisen regarding whether the State of Iowa can maintain its strong educational standards given the increased rate of out-migration of higher education graduates due to job shortage. Also, the report rang the warning bell for rural schools citing the lack of educational resources, technology and telecommunications deployment which rural schools confront in comparison to urban schools.

There are tremendous challenges ahead of us. Our first national priority must be helping U.S. workers adjust to the everchanging requirements of the workplace. The Administration through Secretary of Labor Robert Reich has focused the challenge on the need to move towards "new work". New work requires problem-solving as opposed to rote repetition, upgrading worker skills, and empowering front-line workers to continuously improve products and services.

It is increasingly clear to me that training for "new work" requires new methods in the classroom. The information revolution and the proper utilization of the information superhighway begins with the training of teachers in information technology resources. The adaptation to "new

work" also means that institutions of higher learning must be more creative in enabling workers in transition to afford themselves of lifelong learning opportunities.

It is for these reasons that I strongly and enthusiastically present to you this creative proposal which Buena Vista College is undertaking to enhance the education, job training and economic development opportunities within rural Iowa through a Distance Learning and Information Technology Center.

For the past 18 years, Buena Vista College has been in the forefront in responding to the unique and multi-faceted needs of rural non-traditional students and their imperiled communities. Recognizing the value of further education to rural workers, Buena Vista developed a model program to enable individuals to receive the education and training necessary to adjust to this rural evolution. Through the establishment of satellite campuses across Iowa, Buena Vista has created one of the most innovative educational systems in the country.

As the College prepares to extend its outreach, it will build upon a solid foundation and strong track record in continuing education and be a major resource for the State of Iowa. Specifically, Buena Vista College is planning to establish the "Distance Learning and Information Technology Center" to assist rural Iowans in adjusting to the new demands of a diverse economy through education and access.

Buena Vista College offers the ideal setting for this national demonstration project. It serves 2,500 students each year in baccalaureate level, career oriented programs. Half of these students are traditional, college age undergraduates; half are non-traditional students who are unemployed, under-employed, displaced rural housewives, farmers, agricultural workers or other victims of the changing face of agriculture.

The College operates at multiple sites: on a traditional central campus in Storm Lake, Iowa, and on nine non-traditional branch campuses throughout rural Iowa. The central campus was the first in the Midwest to install and place into heavy use a comprehensive broadband communications system for interactive data, voice and video signal throughout the campus. It also offers a comprehensive communications curriculum with television, radio, and print media emphases which enrolls 200 students. Extensive telecommunications and technological expertise are in place.

The nine branch campuses feature a unique contractual arrangement with public community colleges across the state. The branch campus system creates a unique public/private educational network in Iowa and provides services to the economically disadvantaged and access-deprived populations.

The specific service area for Buena Vista's distance learning initiative covers about three quarters of the State of Iowa including Buena Vista, Clay, Cerro, Gordo, Crawford, Marshall, Pottawattamie, Union, Wapello, and Webster Counties. Most of this area is relatively flat and sparsely populated. The region has experienced a net population loss of nearly 9% over the recent two decades. Nearly 20% of Iowa households are headed by women and 45% of these are in poverty. About 12% of all Iowa households are below the poverty level.

The proposed Distance Learning and Information Technology Center consists of four primary elements integrated to create a multimedia educational resource available throughout Iowa. The components of the Center include:

- 1) A highly complex, encyclopedic base of information, statistics, consulting, and other data organized for quick retrieval, combination and comparison.
- 2) A vast, ultra-sophisticated system of video/audio/digital signal communications technology that can only be found within the context of a major research computer center, coupled with a full service television production studio and radio station that are geared to and used extensively for higher education. A state-wide fiber optic cable system will reach terminals within every county in the State of Iowa.

- 3) A distinguished teaching and consulting faculty that has experience in the creation of new knowledge, the storage and retrieval of existing information and the expertise to transfer that information to a diverse population.
- 4) An extensive network of cooperative arrangements between seven different community colleges and Buena Vista College enabling students in isolated areas to obtain upper level baccalaureate degrees.

In addition, Buena Vista proposes to disseminate its distance learning software and courseware to other potential distance learning providers and other student audiences nationally and to provide software and courseware development services. The College also proposes to develop and offer a curriculum in teaching, administration and systems development focused on distance learning.

These basic elements, carefully integrated and networked, will produce one of the most powerful educational and economic development tools available for rural America. The model established in Iowa will serve to demonstrate the educational potential of utilizing fiber optics in distance education.

The proposed Distance Learning Center is literally a university without walls. Through the auspices of the new Center, Buena Vista will become an institution that is no longer bound to its physical campus. The Center will take the total learning potential of a sophisticated higher education institution and make that full power available to anyone, anywhere, anytime, without regard to their geographical location.

I strongly believe that the Distance Learning and Information Technology Center proposed by Buena Vista College will be an integral component in the revitalization of rural Iowa and will provide a model for replication throughout rural America. The Center will address the importance of improving our nation's technology base and educational resources.

This Subcommittee demonstrated its concern for these issues when it funded the Information Infrastructure Grant program last year. The Congress is taking a critical first step toward promoting education within the NII through the reauthorization of the National Telecommunications and Information Administration (NTIA) which passed the House last year and is currently being worked on in the Senate. Likewise, President Clinton has demonstrated his concern for distance learning education through his FY1995 budget request of \$100 million for the Information Infrastructure Program.

In order to begin the process of improving rural opportunities, Buena Vista's noteworthy distance learning initiative will require construction on the Storm Lake campus of a new 50,000 square foot building that will constitute the head-end technology and resource base for the Center. This facility will house the equipment necessary to network the branch campuses, at least one electronic classroom, and space for additional resource materials. In addition, the Center will require the dedication of space at each of the nine branch campuses to house the terminal communications equipment and scholar kiosks. Buena Vista will also need to acquire the proper electronic technology that will allow it to bundle its other electronic and information resources and to send and signal over the State's new fiber optic network.

Mr. Chairman, I ask for your serious consideration and support of this initiative within the FY 1995 Commerce, Justice, and State, the Judiciary Appropriations Act. Buena Vista College is committed to matching every federal dollar allocated, and has, in fact, already raised half the total construction costs from private sources. The College has performed the necessary architecture and engineering work and is ready to move forward immediately with its construction plans once federal support is received. To that end, I am requesting a federal partnership of \$4 million to complete this initiative.

The Distance Learning and Information Technology Center will apply the latest developments in communications to meet national priorities established by Congress and the Administration. In providing the residents of Iowa with greater educational opportunities, the

Center will be a crucial asset in building and diversifying the state's agriculturally-based economy.

The impact of this innovative Center will be felt on a national and regional level as business observes the power of higher education in improving workers' skills. The successful application of distance learning will also serve as a model for other regions and for other industries.

Mr. Chairman, thank you for your attention and serious consideration.

STATEMENT OF MARK A. EMMERT, PROVOST AND VICE PRESIDENT  
FOR ACADEMIC AFFAIRS, MONTANA STATE UNIVERSITY

Mr. Chairman and Members of the Subcommittee, I am Mark A. Emmert, Provost and Vice President for Academic Affairs at Montana State University, located in Bozeman, MT. I would like to thank the Subcommittee for this opportunity to present this statement.

I am writing to encourage your continued support for a Department of Commerce program within the jurisdiction of the Subcommittee, the Green Building Technology Program within the National Institute of Standards and Technology (NIST).

Montana State University, as a land-grant university, is vitally concerned about economic development and technology transfer. We have, therefore, recently created the Center for Economic Renewal and Technology Transfer (CERTT). The primary mission of CERTT is to promote the development and deployment of technology, particularly environmental technology, in ways that significantly support statewide, regional and national economic development and industrial competitiveness.

Green Building Technology Research and Development

Montana State University was one of several organizations which received a grant from NIST from Fiscal Year 1994 Appropriations to develop a plan for the design, construction and operation of a Green Building Technology Demonstration structure in Bozeman, Montana. Such a structure would incorporate environmentally cutting edge technologies related to overall design, construction methods, materials, and energy efficiency, as well as an environmentally sensitive plan for its ultimate demolition.

The timing for such an environmentally sensitive approach to building construction is excellent, and there are now provisions within the pending NIST authorization bill that would formally establish a "Green Building Technology Demonstration Program" within NIST. NIST has been and continues to be a leader in the development and evaluation of components of Green Building Technology. Other federal agencies such as DOE and EPA also have programs which support the development of more energy efficient and environmentally healthy buildings. Now, the title "Green Building" provides a focal point which would serve to bring together under a common set of objectives similar development efforts in industry and academia as well as Federal, State and Local governments.

The U.S. construction industry has clearly recognized the many important elements of Green Building Technology. This subject was the major focus of the 1993 National Meeting of the American Institute of Architects, an organization which is now evaluating how Green Building Technologies should impact future building codes throughout the U.S. A U.S. Green Building Council has emerged from private industry, yet has a membership which is far broader than just manufacturers of construction and building materials and systems. The Council includes members from energy consulting firms, environmental groups, architects, etc., and is

bringing together constituencies which each play an important role in shaping Green Building technology development and deployment.

Significantly, NIST has taken an active role and interest in Green Building Technology, and co-sponsored an important Green Building Symposium held earlier this year. NIST has provided much of the leadership still needed to close the gaps between Green Building Technology developers, builders and architects, environmentalists and end users. However, though my recent discussions with NIST and the Department of Commerce prove a high level of support for the goals of the Green Building Technology Demonstration Projects, they clearly require more policy guidance and resources if they are to help maintain the U.S. government's leadership role in this emerging field.

We believe that Green Building Technology Demonstration projects play a fundamentally important role in linking new technology development with technology adoption and deployment. Green Building technology must be demonstrated at the local and regional level in order to drive adoption by local builders, architects and end users. Industry alone is not well positioned to do this in a focused way. Thus, Green Building Technology Demonstration projects are regional drivers of economic growth, and are appropriate to and within the scope of the interests and activities of the U.S. Department of Commerce and NIST. Moreover, unless we as a country develop a more coherent approach, Europe, Canada and other countries will continue, as in the recent past, to lead the U.S. in the development, demonstration and deployment of Green Building technologies.

I, like my counterparts, believe the resources to continue to carry out this program are available in FY 1994 and can be readily identified within the amount the Committee recommends for FY 1995 activities. Further, the budget increase for NIST in FY 1995 is not specific in certain areas, especially in the application of new technologies to develop solutions to problems created in the wake of the need to meet more stringent environmental standards.

I also would like to make it clear that we are not seeking earmarks, nor increases above the President's Budget. We do request that the Subcommittee provide the following policy guidance in the report that accompanies the FY Appropriations Bill for the Department of Commerce:

- Continue the Green Building Program in FY 1994 with existing unobligated funds;
- Continue in FY 1995 the Green Building Initiative, in conjunction with the Building Technology and Fire Research and advanced technology programs at a level of \$20 million;
- Develop the FY 1995 program in consultation with EPA and the Department of Energy; and
- Develop the FY 1995 program so that there are internal NIST components; extramural demonstration components of a competitively awarded nature; and industry/council support components.

Thank you for this opportunity to testify before your Subcommittee on this important matter.

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#### STATEMENT OF U.S. GREEN BUILDING COUNCIL

The U.S. Green Building Council appreciates the opportunity to appear before the Chairman and Subcommittee members and present this

statement. We are testifying in continued support of the National Institute of Standards and Technology (NIST) Green Building Technology, Research and Development.

The Council is the nation's only balanced, consensus, nonprofit coalition of the building industry working to improve the energy and environmental efficiency of the "whole building environment." Members are building product manufacturers, environmental groups, architects, engineers, real estate companies, professional associations, state and local governments, utilities, and universities. A membership list is attached.

The Council also testified last year in support of the NIST green building program and is collaborating with NIST on a number of activities including the annual green building conference, accelerating commercialization of green building technologies, the national green building resource center, and the benefits study. In February this year at NIST, the NIST/Council green building conference hosted about 450 attendees. The speakers were national experts including two hours of presentations by the White House and the Rocky Mountain Institute (RMI) on the greening of the White House, in particular the first stage which is now completed. The Council, NIST, AIA San Francisco, Lawrence Berkeley Labs, EPA, DOD, DOE, GSA and United Technologies Carrier are supporting a national green building resource center to provide green building technical data, standards, and other green building information to the public including an online CD ROM data base to architects and other building specifiers.

NIST is also helping Council members RMI and DOW and DOE finalize a draft green building benefits study showing dramatic occupant productivity gains from green buildings. With the substantial assistance of NIST and the Council, ASTM is developing national green building standards for commercial and residential buildings, and life cycle assessment standards for environmental and energy efficiency of building products for use by specifiers. The Council and the Construction Specifications Institute are working with the model code groups on incorporating these standards into state and local building

codes. Also, the Council is a member of the President's Council on Sustainable Development, Sustainable Communities Work Group co-chaired by the Commerce Department and the AFL-CIO.

The Council through its members, has initiated these activities in response to the strong public demand for environmentally and energy efficient buildings. For at least the last five years, opinion polls show that public support for environmental protection remains consistently high above 90 percent. Moreover, current EPA data show that \$120 billion per year are spent on environmental protection. This amount has steadily increased since 1970 and is supported by some 25 federal environmental protection statutes and on average 10 separate environmental statutes for each individual state. For the most part, this environmental protection has not focused on the whole building environment, thus explaining the aggressiveness of the Council's programs and what we believe is the high priority necessary by Congress for NIST Green Building Technology, Research and Development.

Accordingly, the Council supports (1) continuation of the Green Building Programs FY 94 unobligated funding, (2) the FY 1995 Green Building initiative at \$20 million in consultation with EPA, (3) FY 95 funding of the NIST internal components, (4) extramural demonstration components of a competitively awarded nature, and (5) industry/council support components.

Thank you for this opportunity to testify.

**STATEMENT OF THOMAS E. McCLURE, PRESIDENT, NATIONAL ASSOCIATION OF MANAGEMENT AND TECHNICAL ASSISTANCE CENTERS**

I represent the National Association of Management and Technical Assistance Centers (NAMTAC) which is an association composed of some 160 members, most of whom are affiliated with institutions of higher education. They provide economic development assistance to communities, as well as, management and technology transfer assistance to business and industry.

I am also the Associate Director of the Center for Improving Mountain Living of Western Carolina University, where I direct the Regional Development Programs. We provide services to the 28 westernmost counties of North Carolina, specializing in business counseling and planning, feasibility studies, assistance in financial packaging, community economic development planning, data collection and dissemination, regional economic development studies, leadership development, workforce competitiveness, sustainable development issues, and training for local government officials in partnership with the North Carolina Institute of Government.

Planned and developed the strategy for the creation of a flexible loan fund that is supported by a consortium of banks. This fund provides an avenue to financing for Western North Carolina entrepreneurs who may not otherwise be able to access such funding. That project won first place in a national project of the year competition sponsored by NAMTAC. It was the seventh national award our center has received for creation and implementation of innovative economic development projects.

NAMTAC members throughout the country are in the forefront of the drive to make the United States economy more competitive. We help communities organize programs that will sustain competitive businesses and create jobs. We help businesses become more competitive by improving their efficiency, by increasing their access to capital, and by helping them access and make better use of the latest technology.

- **The Western Trade Adjustment Assistance Center in Los Angeles, California** assisted a manufacturer of upholstered institutional seating in identification of major problems, strengths/weaknesses, opportunities, and solutions for recovery. The TAAC assisted the firm in the development of a strategy to overcome impact of foreign imports. Since receiving assistance the firm's sales increased over 100% from \$2.8 million to \$5.6 million over a three years. Employment was increased from 52 employees to 73 during the same time period.
- **The Technology Transfer Office of Dartmouth College and the Southern Technology Applications Center at the University of Florida** shared a second place award in the technology transfer category for their work in helping to commercialize an invention of a researcher at Dartmouth College. The Dartmouth Technology Transfer Office first identified the commercial potential of the invention and then enlisted the aid of the Florida center in identifying biotechnology companies that might be interested in commercializing it. The Dartmouth office then selected a company and completed the agreement, as a result of which a new system has been introduced allowing for a non-cytotoxic enhancement of luminol which intensified chemiluminescence by 400 times.
- The project that won the first place prize in the technology transfer category for **Virginia's Center for Innovative Technology** involved the development and coordination of a project to establish scientific proof of the environmental safety of using ash from a refuse derived fuel plant in a commercial product for marine applications. Not only was it determined that the ash could be used effectively, but the application of the research also produced annual savings in excess of \$2 million for the public service company operating the plant.
- **The Idaho Economic Development Center of Boise State University** received a first place award in the business assistance category for helping an area inventor secure and carry out research grants that established the feasibility of a mechanical straw mulching machine that could significantly increase crop yields, reduce soil erosion and bring down phosphorous, nitrogen and sediment levels in run-off water. His machines are now being produced and employment levels have been increased. In Georgia, the **Georgia Tech Industrial Extension Division** helped a Georgia apparel manufacturer streamline its distribution

center and add new manufacturing facilities. The company reported a 40% increase in efficiency, new investment of \$225,000, cost savings of \$150,000, 30 new jobs, and a sales increase of \$2,000,000 annually. Georgia Tech has a University Center and a Trade Adjustment Assistance Center.

- **The University/Industry Technology Service of South Dakota State University** mobilized its faculty and graduate students to undertake a number of complex technical studies to help a firm that designs and installs heavy duty motor truck scales. The result was a better product that costs less. This work was supported in part by an EDA University Center grant.
- **The Technology Extension Service of the University of Maryland** provided two faculty experts to help a manufacturer of credit cards save \$570,000 yearly.
- **The Small Business Development Center at the Community College of Denver** helped a food service company secure the financing it needed to win two large contracts at nearby military installations.

These are just a few of the many examples by which Small Business Development Centers, University Centers, Trade Adjustment Assistance Centers, and other NAMTAC members help make a more vibrant American economy.

In carrying out their work, NAMTAC members are helped immensely by various Federal programs whose funding levels are under the jurisdiction of this subcommittee. Although our members receive a large part of their funding from State, local and university funds, they could not accomplish what they do without the indispensable assistance they receive from Federal funds. Moreover, it is the Federal grants that are responsible for bringing forth the State and University support.

There are three major sources of Federal funds for the competitiveness work our members carry out. These are: the Small Business Administration (SBA), the National Institute of Standards and Technology (NIST), and the Economic Development Administration (EDA). Within these agencies, NAMTAC members support adequate appropriations for Small Business Development Centers, EDA University Centers, Trade Adjustment Assistance Centers, and the technology transfer programs of NIST.

I would particularly like to emphasize the needs of two programs: the EDA University Center Program and the Trade Adjustment Assistance Program. I will begin by addressing the University Center Program.

On behalf of NAMTAC, I want to express our profound gratitude to you for supporting this program over the years. Your support in previous years has made a great deal of difference to hundreds of communities, businesses, and industries that have been helped by the efforts of University Centers. Currently, the leadership of NAMTAC is involved with EDA in a continuous high level dialogue. We will be working with EDA to develop a review process that includes criteria for program evaluation. These efforts will, we think, result in a more purposeful program and a more effective expenditure of the Federal funds provided by the Congress.

Only 64 centers presently exist, with six states that do not have a center. Some states should have two centers. North Carolina, for example, has only one center, which is located in the West, yet there are also many equally distressed areas in Eastern North Carolina. While we do provide socio-economic demographic data service to all 100 counties of North Carolina through a partnership with the N.C. SBTDC, many of the distressed areas in Eastern North

Carolina are located over four hundred miles from our center, and therefore impossible for us to service.

West Virginia, on the other hand, has two centers; however, every county in the state is an Appalachian Regional Commission (ARC) county and therefore is classified as distressed. Even with two centers, at the current funding level, the needs of all of these counties cannot be adequately addressed. We feel there needs to be a third center to provide service to the northern end of the state. This third center should, most appropriately, be located at the University at Morgantown. However, because of the limited funding presently available, the establishment of a third center is unlikely to happen.

Utah is one of the six states that currently does not have a University Center, even though it has a strong support base and a university anxious to have a center. Funding at the current level of \$7.5 million simply does not allow for the addition of any of these much needed centers.

The University Center Program is very small in terms of federal funds received, yet provides a substantial economic impact as it leverages considerable local/state dollars. We recommend that the program funds be increased to \$10.202 million dollars for FY '95. This increase in funding would allow for a modest increase in funding for each existing center, plus fund four new centers. This increase would also allow for the implementation of a peer review process. Peer review, long recognized by the EDA University Center Directors as a critical need, will serve to strengthen the EDA Centers by eliminating unproductive centers.

My second area of emphasis focuses on the needs of the Trade Adjustment Assistance (TAA) Program. This is a program that, through a network of twelve Trade Adjustment Centers across the country, provides assistance to firms that have been negatively impacted due to import competition.

Over the past five years, 454 participating firms have completed some phase of assistance and experienced a reversal of declines in sales and employment. Employment in these firms increased by 7.1% over employment prior to TAA participation. Sales increased over pre-TAA sales figures by \$803 million (22% increase). For every federal dollar dedicated to TAA there is a return into the economy of \$689. The 689% return includes the maintenance of one job and the derivative of federal, state and local tax revenues from that job along with an economic multiplier effect added.

The demand for TAA services in FY '93 increased 68% over FY '91 and 43% over FY '92. The size of firms applying for TAA certification has also increased to an average of 147 employees (60% over FY '91 and 83% over FY '92). This is a clear indication of the continued need for this program. As a result of this increased demand, there is presently a nationwide "backlog" of \$8.115 million in approved, but unfunded implementation assistance. However, as you are aware, no dollars were included in FY '94 budget for this program.

The TAA program is, again, a very small program in terms of federal dollars received, yet achieves substantial success through its ability to leverage private industry match funds. As you are aware, this program only received \$10 million during this fiscal year; however, EDA has decided to fund a demonstration project in FY '94 to ascertain the application of the TAA program format and services to those firms impacted by defense conversion. This effort has provided an additional \$3.7 million that brings the program to its previous minimum baseline funding of \$13.7 million, which is the least amount of funding that assures effective program operation.

The NAMTAC organization strongly endorses this program and recommends that it be funded at an amount of \$22 million for FY '95. This amount would include the minimum baseline funding plus the backlog of approved but unfunded cases. We ask that Congress restore sufficient funds to enable the Trade Adjustment Assistance Centers (TAAC's) to continue to provide their essential assistance to firms adjusting to the impact of import competition. Such

competition will continue to be a problem for many firms especially as the North American Free Trade Agreement with Mexico is implemented.

We are grateful to your Subcommittee for the support it has given to our members in the past, Mr. Chairman, and we respectfully ask that you continue that support in the years ahead.

#### DEPARTMENT OF JUSTICE

#### STATEMENT OF THE GEISINGER HEALTH SYSTEM

Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to submit testimony for the record on behalf of the Geisinger Health System regarding our efforts to form a partnership with the federal government to develop and implement a model telemedicine/telecommunications network. As planned, this network will incorporate Geisinger's group practice and managed care concepts to enable clinics and physicians practicing in isolated, medically underserved areas to deliver cost-effective, integrated health care services.

The Geisinger Medical Center, founded in 1915, is a 577-bed facility in Danville, Pennsylvania that has become the hub of the nation's largest rural health care system. Today, the Geisinger system is a multi-institutional network serving 31 rural counties and 2.3 million people in central, northcentral and northeastern Pennsylvania. In addition to Geisinger Medical Center, which serves as the region's tertiary referral and Level I Trauma Center, the system includes a 230-bed regional hospital and cancer center in Wilkes-Barre, and 45 physician practice clinics in 38 communities in rural and isolated areas. Geisinger also has the largest rural HMO in the country, the profitable 161,000 member Geisinger Health Plan.

As one of the dozen major clinics in the country and one of only four rural referral tertiary care centers of 500 or more beds, the Geisinger system embodies many of those major characteristics sought by Congress and the Clinton Administration on health care reform. Geisinger has been continually cited as a prototype for health care reform, including the following national endorsements:

- First Lady Hillary Rodham Clinton, Senator Wofford, Senator Specter, Congressman Paul Kanjorski and other legislators have endorsed Geisinger's group practice/managed care concepts as a national model for health care reform.
- The New York Times featured Geisinger's network of 530 salaried physicians as an innovative and cost-effective managed health care system.
- Arnold Relman, M.D., former editor of The New England Journal of Medicine, refers to the Geisinger system with its HMO as the harbinger of what is going to happen in health care all over the country.
- The National Committee for Quality Health Care offers the Geisinger approach as one of several national models for reforming American health care.

#### Telemedicine/Telecommunications Network

Central to our development of a telemedicine/telecommunications network is our commitment to providing quality health care services for the rural communities which comprise our managed care system. Indeed, health care, particularly in rural areas, is an indicator not only of economic development but of quality of life. We at Geisinger are committed to providing our rural communities with better access to medical care and patient information that will lead to economic growth in our region.

In the past eighteen months Geisinger has begun to implement services requiring higher network speeds and has been confronted with the issues of delivering these services over a wide area network in rural Pennsylvania. Primary among barriers in delivering quality services in rural and isolated areas is the inability to efficiently transmit medical information between health care providers, particularly among rural practitioners and referral centers. This obstacle impedes the delivery of coordinated care and adds significantly to costs to patients. We believe that a telemedicine/telecommunications system can address the barriers that, directly and indirectly, reduce efficiency in the delivery of health care, particularly in underserved rural settings.

The Geisinger system represents an ideal setting for testing strategies that would use information technologies to foster cost-effective, high quality integration of health care services among providers in a large rural area. Geisinger is already experienced in developing collaborative relationships both within its own diverse and widely dispersed network as well as with non-Geisinger providers in the service region. Successful outcomes will be a valuable resource to other providers throughout the country. The demonstrated cost savings achieved through increased efficiency directly address a top priority of health care reform. We would like to form a partnership with the Federal government to develop and implement a communications network that would serve as a model for both rural and urban health care providers.

As envisioned, Geisinger's telecommunications/telemedicine network will have several areas of emphasis:

- Exploring new models for delivering care in rural, underdeveloped areas by demonstrating how the existence of this information infrastructure can lead to fundamental, cost-efficient changes in the practice of medicine, changes that would not be available without the tools provided by high speed telecommunications.
- Reducing the isolation of physicians and patients in rural areas and expanding opportunities for local communities to have interactive communication capabilities that can be used for numerous activities including ongoing education programs.
- Improving and stabilizing the impact of health care reform on the medical work-force in small, rural and underdeveloped communities by upgrading and converting existing medical facilities to ensure their continued and efficient operation without significant job losses.

Through this network, we intend to show that a highly functional, cost-efficient telecommunications system using available technology can make a major contribution to the goals of health care reform in rural areas, namely, better patient access and higher quality health care at lower cost.

The timing for our proposed medical telecommunications project parallels the priorities outlined by the Congress, the Administration and the State of Pennsylvania. The government's leadership in health care reform and telecommunications exemplifies the Geisinger telemedicine network as a model approach to utilizing state-of-the art technologies in providing quality, affordable health care services. As a nationally-recognized model for an integrated health care system, a successfully implemented telecommunications system here can become a prototype that sets standards for other health care providers in additional areas.

Geisinger Health System proposes three initial projects to demonstrate the effectiveness of our telecommunications/telemedicine network:

1. Videoconferencing and nutrition education for health professionals, students and elderly persons;
2. Emergency room videoconferencing;

### 3. Teleradiology

#### Telemedicine Network to Federal Prisons

Knowing the Subcommittee's jurisdiction over the Federal Bureau of Prisons, I would like to call your attention to Geisinger's long involvement in a medical contract with the U.S. Penitentiary in Lewisburg, Pennsylvania -- located 20 miles from Danville. For many years Geisinger has administered health care services, on a case-by-case basis, to Lewisburg inmates whose health conditions require medical attention not offered at the prison. Although our main Medical Center in Danville is equipped to treat such prisoners and mitigate costly, long-term procedures, this arrangement poses significant security risks to our medical and administrative staff, patients, and visitors to the Medical Center. For example, in 1987, a security officer was shot during an attempted escape by a prisoner who was being treated at the Medical Center.

This threat has forced us to increase dramatically our security measures and staff during such treatments. Geisinger Health System has proposed establishing a link between our telecommunications network and the Lewisburg Penitentiary that will enable Geisinger physicians to provide health care consultation without having to transport inmates to the Medical Center. The use of the network will help minimize security risks to the Medical Center and surrounding areas as well as eliminate unnecessary travel time and expenditures. Further, this component of our telemedicine/telecommunications network could also serve as an example to other health care providers who wish to establish similar medical alliances with facilities in remote locations.

#### Request for Federal Partnership

Geisinger Health System recognizes the role of this Subcommittee in supporting the development of the Clinton Administration's National Information Infrastructure. We are greatly heartened by the Federal government's role in supporting organizations like Geisinger to develop advanced communications technologies to administer quality health care services in a more efficient and cost-effective manner. We ask that the Subcommittee direct the National Telecommunications and Information Administration to give strong consideration to Geisinger's request for funding to develop a telemedicine/telecommunications network for a rural, managed care environment. We are uniquely qualified to implement an interactive network that other rural health care providers can replicate.

In addition, Geisinger Health System has applied for the NTIA's competitive TIAP grant. We support the Administration's increased FY 1995 budget request of \$100 million for Information Infrastructure grants and other initiatives to foster private sector involvement in the NII. We are prepared to demonstrate that advanced telecommunications technologies can improve the quality and accessibility of health care in underserved areas and reduce the costs of such care. In accordance with the goals of NTIA, Geisinger's network will be multifaceted to support a variety of health care activities -- including the development of computerized medical records, education and training for primary care providers, teleradiology applications, improved emergency room services, and other interactive communication uses to link isolated physician sites with the main Medical Center. More important, Geisinger's network will be designed to accommodate the unique needs of an HMO in a rural area.

Therefore, Geisinger Health System is requesting \$3 million through the FY 1995 Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Bill to help develop a model telemedicine/telecommunications network that can provide cost-effective, quality medical and administrative services under a managed health care system. This network, successfully implemented and tested, could become a prototype for other health care providers in medically underserved areas.

Thank you for your consideration of our request.

**STATEMENT OF LEE ARBETMAN, COORDINATOR, YOUTH FOR JUSTICE,  
NATIONAL, COORDINATED LAW-RELATED EDUCATION PROGRAM**

I am Lee Arbetman of the Coordinated, National Law-Related Education Program. I am submitting this testimony on behalf of Youth for Justice, the National, Coordinated Law-Related Education Program.

In a very real sense, I also testify on behalf of the nearly eight million youth nationwide who have been helped by this program in the past ten years. We respectfully request the Subcommittee's continued appropriation support for fiscal year 1995.

We also want to testify today in support of an increase in appropriations for the Office of Juvenile Justice and Delinquency Prevention. The dedicated employees of that agency have worked for many years to develop and implement programs to prevent juvenile delinquency. There has often been a difficult and challenging task, and we hope that the Subcommittee will join us in recognizing the importance of their mission.

Mr. Chairman, thanks to your many years of stalwart support and thanks to the continued commitment of the Subcommittee, Youth for Justice, the National, Coordinated Law-Related Education Program has built a vital, cost effective program serving the needs of youth throughout our nation. This program:

- Teaches young people acceptable, alternative ways to resolve conflict;
- Fosters constructive attitudes towards authority figures, such as parents, teachers and police officers;
- Provides young people with meaningful opportunities to serve their communities;
- Promotes understanding of and reasoned commitment to the rule of law along with tolerance for varied points of view in a free and diverse society; and
- Helps young people understand the democratic process and develop the critical thinking, decision-making, and problem-solving skills to enable their full participation in that process.

**THE NATIONAL LAW-RELATED EDUCATION PROGRAM**

The National, Coordinated Law-Related Education Program is comprised of five not-for-profit organizations, each of which is recognized nationally and internationally as a leader in the field of law and civic education: The American Bar Association's Special Committee on Youth Education for Citizenship; the Center for Civic Education; the Constitutional Rights Foundation; the National Institute for Citizen Education in the Law; and the Phi Alpha Delta Public Service Center. By combining their expertise and experience as teachers, school administrators, juvenile justice professionals, attorneys, and professors these five organizations have successfully administered a nationwide program in which they have:

- Established and maintained an effective network of law and citizenship projects in 48 states, the District of Columbia and Puerto Rico, so that accurate information and effective materials can be efficiently distributed and widely used;
- Provided annual funding and on-site technical assistance to the state projects in this network;
- Established innovative law and citizenship programs for at-risk youth;
- Provided over 700,000 hours of training for teachers, law enforcement personnel, and other professionals who work with young people;
- Developed and field-tested quality curricular materials for children—kindergarten through grade twelve—in public and private schools, juvenile detention centers, after-school programs, and court-related diversion programs;

- ▶ Organized special initiatives on drug prevention, juvenile justice and urban education, publishing materials and sponsoring more than 400 training events nationwide; and
- ▶ Mobilized thousands of volunteers with expertise in law, public policy, drug and alcohol abuse prevention, juvenile justice, and other areas.

The National, Coordinated Law-Related Education Program acknowledges with pride the participation of dozens of organizations in the education, legislative, legal, law enforcement, judicial, and juvenile justice communities. The Program has had assistance from the executive branch and strong bipartisan support in Congress for the outstanding programs and materials it has developed and implemented.

In addition, it is a particular source of satisfaction to note that similar partnerships have been developed in many of the states participating in this network. A small amount of federal support has provided the impetus to attract the commitment of local organizations, agencies, and foundations. One important goal of this Program is to continue to provide the support and technical assistance necessary to enable all of the states to build their own public/private partnership networks, effectively leveraging a small amount of federal assistance to build strong local and state programs.

#### EVALUATIONS OF LAW-RELATED EDUCATION

A variety of evaluations, carried out over the period from 1980-1991, have found that Law-Related Education, when properly implemented, is a uniquely effective program for preventing a broad range of delinquent behaviors.

A four-year national quantitative evaluation of Law-Related Education was carried out in 32 schools in six different states from 1980-1984. Conducted by the Center for Action Research and the Social Science Education Consortium, of Boulder, Colorado, the evaluation found that

- ▶ Law-Related Education, when implemented properly, reduces those factors associated with delinquent behavior;
- ▶ Law-Related Education, more than any other subject, fostered a belief in students that laws are legitimate and should be obeyed; and
- ▶ Some of the positive effects of Law-Related Education included reduction of school infractions, decrease in the use of alcohol and other drugs, and a decrease in other delinquent behaviors.

The Office of Juvenile Justice and Delinquency Prevention has noted that evaluations of Law-Related Education Program have been "encouraging...confirming the previous findings that such education serves as a significant deterrent to delinquent behavior." Eighth Analysis and Evaluation of Federal Juvenile Delinquency Programs, U.S. Department of Justice, OJJDP, p. 60 (1985).

The Twelfth Analysis and Evaluation of Federal Juvenile Delinquency Programs published in 1988 similarly states "[A] national study suggests that Law-Related Education, when properly implemented, can reduce the tendency to engage in delinquent behavior."

In addition, numerous studies indicate that academic achievement is linked with active learning. Law-Related Education provides opportunities for students to participate in mock trials, legislative hearings, and other simulations. Because Law-Related Education encourages cooperative learning, students learn important social skills they will need to succeed as citizens. Overall, students in a Law-Related Education class gain more, in knowledge, skills and attitudes, than those in more traditional classes.

In a 1990 evaluation, the Social Science Education Consortium found that 73 percent of those teachers, nationwide, who had attended Law-Related Education training were currently

teaching Law-Related Education or had taught a Law-Related Education program as a result of that training. Of those teachers who had participated in training, but were not actually teaching Law-Related Education at the time of the study, 81 percent said they would like to be teaching it.

Dr. Timothy Buzzell of Drake University, Des Moines, Iowa, published a 1991 study of one of the first Law-Related Education Programs in a juvenile justice setting. In 1985, the State Training School for Boys (a secure facility for adjudicated delinquent boys age 14 or older) in Eldora, Iowa, initiated a comprehensive Law-Related Education program. Basing his study on two evaluations over a six-year period, Dr. Buzzell concluded that high-risk factors such as ineffective social bonding, poor interactive skills, and lack of interest in learning may be ameliorated by participating in law-related curriculum.

#### EXAMPLES FROM THE STATES, REACTIONS BY STUDENTS

Mr. Chairman, members of the Subcommittee, the National, Coordinated Law-Related Education Program is effective because it truly reaches young people and the adults who work with them in the 48 participating states, the District of Columbia and Puerto Rico. Just a few examples illustrate some of the varied programs made possible with Congressional support.

- ▶ North Carolina's new Center for the Prevention of School Violence is directed by Dr. Pamela Riley, an experienced Law-Related Education trainer. She works with young people such as Michael Williams, a student at West Charlotte High School. Williams, who has suffered the grief of having a close friend and classmate murdered, helps contact students in other high schools. He tells them, "Our group of people is striving to show the world that guns and violence do not solve the problems of the world."
- ▶ Dr. Timothy Buzzell, Director of the Iowa Center for Law and Civic Education, reports that the Iowa legislature has recently agreed to fund a statewide violence prevention program using Law-Related Education materials and strategies. Federal support and seed money have effectively served as a catalyst for state support for these programs.
- ▶ Jennie Shaffer, a high school teacher in Keyser, West Virginia, recently participated in training conducted by the Center for Civic Education. She and her students are now so enthusiastic about Law-Related Education that she has taught workshops for other teachers in her state. Two weeks ago, Ms. Shaffer presented a one-hour introduction to Law-Related Education for 250 parents at the statewide P.T.A. Conference. She reports that, "The parents were so excited about the lesson, that they didn't want the session to end. Everyone wanted materials for their own kids' schools."
- ▶ Lynda Rando, Director of the Arizona Center for Law-Related Education, reports enthusiastic participation throughout the state in civic education programs such as the annual high school mock trial competition and the We the People... The Citizen and the Constitution Program. Arizona law enforcement officers have been active participants in classrooms at all grade levels.
- ▶ The Kentucky Law-Related Education program during the past year focused on training "court designated workers" who teach "at-risk" youth and also on training university students who are preparing to become teachers, especially in rural areas.

But, in many ways, the most important responses to these programs are those of the young people. And so we share with you just a few:

- ▶ A student in a large urban high school: "I think every student should have this course to familiarize them with the legal system. The class changed my mind about hanging with friends that like to steal."

- ▶ A middle school student: "This program could turn around the lives of kids to make better decisions and perhaps have a safer environment. I liked the class when we went to court."
- ▶ A teenager in a court-related diversion program: "I learned a lot about why there are certain laws and rules. This will definitely have an effect on my future decisions. I would like to go to the kids in kindergarten and teach them so hopefully they will stay off the streets and away from drugs."

#### NEED FOR CONTINUATION/CONCLUSION

Although this program has reached millions of young people and trained well over 125,000 professionals who work with youth, there is considerable work yet to be done. We seek continued Congressional support for the following reasons:

First, systemic change in educational and juvenile justice systems is a lengthy process, requiring commitment and assistance over a period of time. Youth for Justice, the National Coordinated Law-Related Education Program, is in a unique position to provide continued support and technical assistance throughout the nation at a very low cost through its existing network. Materials development, research dissemination and training expertise located in a national, coordinated effort prevents costly, wasteful, and frustrating reinvention and testing of strategies and solutions to the problems common to young people throughout the nation.

Second, the initiatives begun through this Program in the areas of juvenile justice, urban education, and substance abuse are just beginning to have widespread impact throughout the states. The continued need for education and prevention programs centered upon these areas makes it important to keep the momentum of materials and services available.

Third, we are absolutely committed to providing leadership in the national effort to stop the outrage of violence committed by and perpetrated against this nation's youth. We have the capacity and the will to involve young people directly in helping to identify and implement solutions. With the support of Congress, Youth for Justice plans to refocus all programs to reflect the nation's growing concern about violence committed by and against young people in our schools and communities. Our new name, Youth for Justice, reflects this group's commitment to safe, disciplined, and drug-free schools where young people are given a role in helping to build responsible solutions to widespread societal problems.

The staff members of this national coordinated group have extensive experience in conflict management, mediation and alternative dispute resolution; all promising practices in the national concern about youth violence. An enormous effort will be required to share this expertise with teachers, juvenile justice personnel, and others during the upcoming years.

Mr. Chairman, Youth for Justice, the National Coordinated Law-Related Education Program would like once again to express its appreciation to you, to this Subcommittee and to the Congress for your support. We accept the responsibility and the challenge of providing the best possible programs that we can for the benefit of all of America's children.

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#### STATEMENT OF WILLIAM C. O'MALLEY, PRESIDENT, NATIONAL DISTRICT ATTORNEYS ASSOCIATION

I appreciate the opportunity to provide a statement on behalf of the nation's prosecutors and to urge your continued support of the American Prosecutors Research Institute's National Center for Prosecution of Child Abuse. I am Bill O'Malley, District Attorney for Plymouth County, Massachusetts and have served the people of my county for 22 years. In addition I am proud to serve as the President of the National District Attorneys Association and am here to provide you with the views of that 7000 member organization.

Violence within the family lies at the root of this nation's most serious problems. In 1992, 2.9 million children were reported as alleged victims of abuse and neglect, compared to 1.2 million in 1982. Since 1985, child abuse reports have increased at a rate of 6% per year, with more recent increases of 7.8%. At least four children a day die of maltreatment, 87% of whom are under five years of age. The cost of protective service investigations is estimated to exceed \$500 million each year, and 30% of abused children suffer chronic health problems. The annual medical costs are astronomical--almost \$800 million in hospital care for physically maltreated children; \$2.8 billion for inpatient mental health care of abused children and close to \$815 million for outpatient treatment of abused victims and families. Children who suffer maltreatment at home test lower at school have more discipline problems and higher rates of suspension. Learning disorders related to abuse require special education for 22% of abused children.

The child abuse-related costs in juvenile delinquency, high risk behavior in adolescence, adult crime, high alcohol and substance abuse rates, potential welfare dependency and lost earning power are headlined in the newspapers. The legacy of child abuse is reflected in prison and other institutional populations, in homeless and battered women's shelters, in epidemic street violence and a host of other problems threatening the daily well being of America's citizens. Effective intervention to safeguard victims from assault is not only a legal requirement but a critical step toward building a more stable national future.

Few public agencies are immune from responsibility to respond to this crisis. Few are as critical to its solution as a sensitive and knowledgeable criminal justice system. Working with social service, mental health, education and law enforcement professionals, prosecutors throughout the country are rising to this challenge.

Child abuse crimes are unique in nature and their seriousness and complexity dictate that they be handled differently than other criminal cases. While no single approach can serve as the answer, prosecutors throughout the country have implemented a number of effective and innovative strategies with common ingredients. These strategies recognize that because children are the focal point, and often the primary witness, in child abuse cases, a criminal justice system designed for adults must adjust to accommodate the special needs of children. Interviewing and investigation techniques, trial preparation and procedures, court room configurations and evidentiary rules all must be modified to give maximum consideration and protection to children, while safeguarding the constitutional rights of defendants. Across the country, child abuse professionals have learned that specialization within agencies and coordination among them are the key to sensitive and successful investigations and prosecutions.

In recognition of the tremendous challenge posed by child abuse cases, the American Prosecutors Research Institute (APRI) sponsored a symposium on child abuse in May 1985, bringing together prosecutors from around the country to discuss issues of common concern regarding the investigation and prosecution of child abuse cases. Chief among the findings was recognition that fatal, physical and sexual child abuse and exploitation constitute serious crimes, regardless of the relationship between the victim and offender. The result of this symposium was a determination to assume a leadership role in improving the community response to these serious and complex cases. At the direction of the Board of Directors of the National District Attorneys Association (NDAA), APRI established the National Center for Prosecution of Child Abuse (NCPCA) as the foundation of this effort. NCPCA's mission is to improve the investigation and prosecution of child abuse through professional specialization, interagency coordination, and court reform.

Since its inception, the National Center for Prosecution of Child Abuse has had significant influence on the manner in which child abuse cases are investigated and prosecuted. It has provided a vehicle for prosecutors to play an active role in shaping public policy regarding the community response to crimes against children. By providing technical assistance on all aspects of the investigation and prosecution of child abuse, training

prosecutors and other professionals, becoming active in national organizations and debates concerning policy issues, and maintaining an open dialogue with prosecution and other experts around the country, NCPCA has focused attention on the pivotal role played by prosecutors in responding to child abuse.

Like murder or adult sexual assault cases for which lengthy preparation is demanded, child abuse cases routinely require a significant amount of time to evaluate and present. It is not uncommon for the prosecutor to meet with the child many times to develop a comfortable relationship, elicit necessary information, assess ability to testify and prepare for court. Usually, multiple meetings with family members and other witnesses, including potential experts, are also involved. The prosecutor must often overcome anxiety about the criminal justice process and resistance to participation by victims and family members. Given the costly price of human mistakes, prosecutors have a strong incentive to spend substantial time in case preparation. Multi-victim and child homicide cases can be especially time-consuming, demanding expertise in complex medical areas, numerous witness interviews and careful case strategy.

Referrals of child abuse cases have increased dramatically in a short time. Public awareness of sexual abuse, increasing unwillingness to tolerate severe physical abuse and a steep rise in social conditions breeding child neglect account for most reports to public agencies. More cases with younger victims go to trial. In turn, the greater volume of cases produces higher public expectations of prosecutor sensitivity and success. Subject to greater scrutiny and benefiting from increased knowledge regarding successful prosecutions, many jurisdictions have reorganized their procedures, invested time in building community networks, proposed legislative reforms and developed broad child abuse prevention campaigns. No area of law has changed so rapidly in the last twenty years as child abuse. None has such far-reaching implications for individual and social well-being.

For most district attorneys, child abuse and other family violence cases are among the most complex they face. They often involve very young witnesses, uncooperative family members, sensitive subject matter and difficult evidentiary issues. Professional specialization and training are critical to our effectiveness in court with these delicate and complex cases, yet no such educational opportunities are provided in law school. State-of-the-art professional training provided by the National Center for Prosecution of Child Abuse has been invaluable to local prosecutors, who now have immediate access to the latest developments in case law, research and statutory reforms, as well as invaluable strategic help in trying some of the most troublesome cases many will ever encounter.

Most child abuse prosecutors are inexperienced, are rotated frequently to other assignments or expected to leave their position shortly. Many work in small offices that can not afford the full-time assignment of a single individual to child abuse cases. Even with a stable workforce and ability to create special child abuse and witness-support units, keeping up with changes in laws and procedures as well as medical advances is impossible on a local level without access to resources like the National Center for Prosecution of Child Abuse.

The National Center provides professional services unavailable anywhere else in the world, and meets a standard of quality that is rare. With a relatively modest federal investment, the nation has reaped tremendous dividends: in advancements in criminal justice handling of child abuse and in generating numerous similar state and federal projects. Level federal funding has been the lynchpin for the Center's impressive achievements and growth. We know of no other resource that delivers the quantity and quality of practical assistance to prosecutors and other on-line child abuse professionals who face dreadful cases every day. Given the devastating impact of childhood violence on our education, health, justice and welfare systems, the importance of skilled intervention on behalf of children cannot be overestimated.

With a small staff, its dedication to child victims and a rigorously maintained legal and research collection, the Center serves as a model for federal investment. Its 1993-94 record demonstrates the springboard effect of stable funding in creating new financial streams:

- \* **Training.** The Center conducted training or met with approximately 26,000 individuals at approximately 125 conferences and workshops. Audiences included prosecutors, law enforcement, social service, mental health, medical and education professionals and victim advocates. State attorneys general, US attorneys, military and tribal prosecutors and FBI agents were among officials trained.
  - State Contracts.** Approximately 5,500 of the total trainees represented state contracts with Nebraska, Virginia, Vermont, Michigan, West Virginia and Ohio. Here, protocol development with multidisciplinary teams was emphasized.
  - Policy Development.** Staff served as advisory board members or project staff for nine federal agencies/projects.
- \* **Technical Assistance.** The Center responded to some 3,500 requests--up 35% from the year before--with information on trial tactics, legal and social science research, statutes and case law. Evaluations speak to the Center's promptness in providing critical information while trials are underway, legal insights, help "beyond the call of duty" and professionalism.
- \* **Publications.** The Center's mailing list grew to over 8,600 individuals who *requested* placement on the mailing list to receive the free newsletter *UPDATE*. During the project year, APRI published the Second Edition of *Investigation and Prosecution of Child Abuse*. Now in two volumes, this manual is recognized as the authoritative guide to handling criminal child abuse cases.
- \* **Special Projects.** The Center conducted three projects on parental abduction cases for OJJDP, and was a subcontractor on two others for the Office for Victims of Crime: "Development of Sexual Assault Protocols" and "Victim/Witness Program Training for Prosecutors." Under a contract with HHS' National Clearinghouse on Child Abuse and Neglect, the Center surveyed state child abuse statutes.

As officials responsible to uphold the law and protect the rights of both victims and the accused, we need the National Center for Prosecution of Child Abuse. We need it not only to maintain its current level of services--which are remarkable--but to expand them to meet the growing need of local prosecutors. Child abuse is an all-too-common crime--a crime to which prosecutors must respond. Our laws are written to protect the youngest and most vulnerable of crime victims. But we need to help to do the kind of job in and out of court that children especially deserve.

In considering the financial needs of the National Center for Prosecution of Child Abuse, let us remember the purpose of this organization: to give child victims of abuse the right to equal justice. Please remember, it takes courage for a child to come forward and testify in court. It takes courage to face an adult who has used the child's need for love and fear of retribution to buy silence. It takes courage to make public an intensely private and shameful experience. And it takes courage to risk losing whatever remaining support still exists within one's family by exposing the horrible reality of life at home. The National Center for Prosecution of Child Abuse honors that courage. It deserves your support.

Congress clearly expressed its intent to improve the investigation and prosecution of child abuse cases through a bipartisan effort culminating in passage of the Victims of Child Abuse Act of 1990. The Act, Title II of the Crime Control Act of 1990, authorizes funding for a national organization to provide training and technical assistance to improve the quality of criminal prosecution of child abuse cases in state and federal courts. The National Center for Prosecution of Child Abuse is the only organization dedicated to this purpose.

We urge this Subcommittee to continue supporting the Center. Annual federal funding of \$1.5 million would ensure its continued effectiveness. I can promise the members of this

Subcommittee that this modest investment will reap tremendous dividends in protecting America's children from abuse and building the kind of society that values all its members.

STATEMENT OF FREDA ADLER, PH.D., PRESIDENT-ELECT, AMERICAN SOCIETY OF CRIMINOLOGY ON BEHALF OF THE CONSORTIUM OF SOCIAL SCIENCE ASSOCIATION

Mr. Chairman and Members of the Subcommittee:

I am Dr. Freda Adler, Distinguished Professor of Criminal Justice at Rutgers University and President-Elect of the American Society of Criminology (ASC). I am testifying on behalf of the Consortium of Social Science Associations (COSSA), an advocacy organization for the social and behavioral sciences supported by over 90 academic societies, professional associations, research institutes and universities. For your reference, I have attached a list of COSSA members.

Earlier this year COSSA and ASC came to Capitol Hill to present a breakfast seminar, A Menaced Society: Is the Crime Bill the Answer?, bringing the findings of criminal justice research to an audience of over 90 congressional and federal agency staff. A summary of the event follows my written statement. It is the message of this seminar -- that a strong research and development effort is needed to evaluate the strategies used in waging war on crime -- that I hope to share with you today in urging the Subcommittee to adequately fund the research and statistics programs of the Department of Justice's Office of Justice Programs (OJP). The agencies I speak of are the National Institute of Justice (NIJ), the Bureau of Justice Statistics (BJS), and the Office of Juvenile Justice and Delinquency Prevention (OJJDP).

The issue of crime dominates our public agenda like never before. Fear and frustration continue to rise, state and local law enforcement officials are clamoring for new strategies and resources to fight crime, and Congress is debating a sweeping and costly package of anti-crime legislation. Sadly lacking in all of this sound and fury is a well-funded research and development effort to study and evaluate the very measures currently under consideration in this building. The crime bill's provisions for stricter sentencing, more police on the streets and boot camps for juvenile offenders are very expensive strategies that need to be subjected to calm, level-headed scientific analysis. Given the public outrage over the issue of crime -- and the plethora of legislative proposals -- the lack of sufficient funding for crime and criminal justice research cannot be justified.

Crime and criminal justice research receives only seven cents of every \$100 of federal research and development funding. According to the National Academy of Science's 1993 study, Understanding and Preventing Violence, "as a research topic, violence receives far less support than certain other threats to life." The report said that expenditures on violence research total \$31 per year of potential life lost, in contrast to \$441 for heart/lung/blood, \$697 for AIDS, and \$794 for cancer. The Academy did not include in this comparison the external social costs of violence such as deterioration of quality of life, loss of legitimate economic activity, and the negative effects of chronic exposure to violence on child health, education, and social development. The study noted certain research areas that have been given few resources where a small-scale investment could bring rapid and sizable progress: the effects of weapon type on death rates in assaults and robberies; interactions among demographic and situational risk factors for violence events; comparisons of how individuals' potential for violent behavior develop in ethnically and socioeconomically diverse areas; and factors causing sexual violence.

The Office of Justice Programs can trace its roots back to the 1967 report of the President's Commission on Law Enforcement and Administration of Justice. The report recommended, among other things, the creation of a federal research and development program to address the nation's crime problems. It was hoped that this federal effort would someday achieve a success similar to that of the National Institutes of Health.

Research has made strong contributions to our crime and criminal justice policies. According to a RAND Corporation study, "research has helped shape the way criminal justice policymakers and practitioners think about issues, how they identify problems that need attention, which alternatives they consider for dealing with their problems, and their sense of what can be accomplished."

In the area of career criminals, research has been extremely significant in unraveling the demographics of crime and their effects on crime rates and crime patterns. Research on sentencing alternatives, those that punish but do not incarcerate, has given policymakers insights into the impacts such programs would have on the size and composition of prison populations, in addition to examining the public safety impact of changes in parole and probation policies. Social science research in areas of juvenile justice has examined issues relating to the root causes of juvenile delinquency and has also addressed recidivism, prevention, and intervention. Evaluation studies of controversial programs such as boot camps for youth offenders or alternative interventions with spouse abuse have provided invaluable knowledge. Federally-supported research has examined drugs, gangs, family violence, patterns of victimization, sentencing, and community policing, all in efforts to better inform criminal justice practitioners and policymakers.

#### National Institute of Justice

NIJ has developed an ambitious, long-range plan to shape its future research agenda around six goals designed to advance our understanding and response to violence and drug-related crime:

- ♦ Reduce violent crimes and their consequences.
- ♦ Reduce drug-and alcohol-related crime.
- ♦ Reduce the consequence of crime for individuals, households, organizations, and communities.
- ♦ Develop household, school, business, workplace, and community crime prevention programs.
- ♦ Improve the effectiveness of law enforcement, criminal justice, correctional, and service systems' responses to offenses, offending, and victimization.
- ♦ Develop, promote, and use criminal justice research, evaluation, and technology.

These goals have been warmly embraced by a broad range of researchers and practitioners, but lack the funding to be effective. For Fiscal Year 1993 NIJ was only able to fund 12 percent of grant applications, a success rate about half that of the National Science Foundation and the National Institutes of Health. If these six goals were given strong financial and political backing, perhaps they could take on the galvanizing impact that the formulation of the six education goals has had on our nation's commitment to reforming America's schools.

A cornerstone of NIJ's efforts to expand the base of knowledge about crime and criminal justice issues is the Program on Human Development in Chicago Neighborhoods, which seeks to "advance knowledge of the individual, familial, and societal influences that contribute to the development of criminal behavior." This ongoing project, jointly funded by NIJ and the John D. and Catherine T. MacArthur Foundation, focuses on such issues as the level and impact of fathers' involvement with preschool children, relationships between gender and crime, development of attitudes towards deviance between ages 11 and 18, the influences of health on aggression, and use of social services among adolescents and their parents. As the study enters a key data collection phase, NIJ must be able to maintain its strong commitment to this project.

As policymakers at the local, state, and federal levels consider community policing and boot camps for juvenile offenders, NIJ aspires to assist these efforts through research and evaluation of these proposed methods of fighting crime. According to Hubert Williams, President of the Police Foundation and former Director of Police in Newark, New Jersey, cities and police departments need help as they move toward a community-oriented method of policing. Williams, who has praised the impact of previous federally supported studies on police strategies, has spoken of the need for research on how communities can most effectively use the 100,000 new police officers that would be created by the administration's crime bill. In the area of boot camps, NIJ-sponsored research conducted by Doris MacKenzie of the University of Maryland has shown that they can be effective if designed and implemented properly. Considerably more research and evaluation must accompany implementation of this alternative to incarceration to ensure its success as a successful component of the nation's anti-crime efforts.

NIJ recognizes the importance of maintaining a strong infrastructure within universities and criminal justice agencies as part of an expanded research and development effort. Criminal justice is the fastest growing area of study in the United States. In 1965 there were two or three university programs in criminology or criminal justice; today there are 18 doctoral programs, 157 masters programs, and between 600 and 1,000 college level educational programs, spreading throughout every state of the union. With this in mind, NIJ seeks to undertake a broad range of research and technical assistance programs with universities and law enforcement agencies. These include visiting fellowships at NIJ, post-doctoral opportunities, NIJ-backed partnerships between universities and local police departments, an Historically Black Colleges and Universities Fellowship Program, and a young scholars research opportunity. Mr. Chairman, I urge the subcommittee to link the critical need to fight crime with this burgeoning field of study by strongly supporting NIJ fellowships.

#### Bureau of Justice Statistics

The Bureau of Justice Statistics is the statistical arm of the U.S. Department of Justice. It is mandated by law to collect, analyze, publish, and disseminate statistics on crime, victims of crime, criminal offenders, and operations of justice system agencies and components at all levels of government. The National Crime Survey (NCS), BJS' largest single data collection, offers insight into the nature of crime, its consequences, the relationship between victim and offender, and the willingness to report crimes to the police. BJS also maintains a wide array of statistical programs in the corrections area.

For Fiscal Year 1995, BJS will help implement the Brady Law by creating a statistical database for firearms records, in addition to administering a grant program for the improvement of state efforts. BJS seeks to develop a statistical program for intentional injuries, working with emergency room personnel to better measure crimes

against youth. For example, the FBI does not include rapes against victims under the age of 12 in its reports. Another new initiative at BJS is the creation of an index of leading indicators, to help law enforcement officials anticipate and respond to emerging trends in crime. We urge the Subcommittee to provide the resources needed for BJS to continue to help formulate effective crime strategies at the federal, state, and local levels.

#### Office of Juvenile Justice and Delinquency Prevention

The Office of Juvenile Justice and Delinquency Prevention primarily focuses on training and technical assistance programs, but does contain a research component that addresses important issues worthy of the Subcommittee's strong support. OJJDP-sponsored research examines such issues as the detention of juvenile offenders, the juvenile justice system's response to juvenile sex offenders, and the effects of delays in juvenile treatment and sanctions. OJJDP funds a National Youth Gang Clearinghouse and a National Juvenile Court Data Archive, both of which collect, analyze, and disseminate essential information to both researchers and practitioners. While we urge the Subcommittee to endorse the proposed increase for OJJDP, we wish that the administration had requested similar increases for NIJ and BJS, whose budgets were held flat in the FY 1995 proposal.

The critical issues targeted by NIJ's unprecedented long-range plan cannot be adequately addressed with NIJ's current appropriation, nor can the mandates of BJS and OJJDP for producing and disseminating crime-related information be realized under current funding levels. If we as a nation are to be true to our post-Cold War commitment to devote more of our attention to the needs of people at home and to rebuild our social infrastructure, we must devote more resources to a strong research and development program in the Department of Justice that seeks to find solutions to the crime problem.

Thank you for the opportunity to share our views.

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Brookings Institution	National Opinion Research Center
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## A MENACED SOCIETY: IS THE CRIME BILL THE ANSWER?

FRIDAY, FEBRUARY 4, 1994, 8 A.M. TO 10 A.M.  
2154 RAYBURN HOUSE OFFICE BUILDING

Sponsors: Consortium of Social Science Associations  
American Society of Criminology

After brief welcoming remarks by Howard J. Silver, Executive Director of the Consortium of Social Science Associations, the moderator of the event, Freda Adler, Distinguished Professor Criminal Justice at Rutgers University and President-Elect of the American Society Criminology, gave a brief overview of the role of crime and criminal justice research. She spoke of 1994 as "an auspicious moment" in American history, with growing levels of public outrage over crime, proposed sweeping anti-crime legislation, and the prominent role of crime in President Clinton's State of the Union address. Adler said "nobody knows for sure" whether the Senate crime bill will work, adding that most of its provisions are untested by the scientific community. She said that the bill's provisions for more police, boot camps, and strict sentences are "very expensive strategies and need to be evaluated." In setting the tone for the seminar, Adler urged a "calm, level-headed, scientific analysis" of these issues.

Jerome H. Skolnick, Claire Clements Dean's Professor Law (Jurisprudence and Social Policy) at the University of California, Berkeley and President of the American Society of Criminology, sought to question "intuitive, reflexive" crime control strategies and highlight the differences between retribution and crime prevention. He noted surveys showing that violent crime peaks at age 17 and is half as prevalent at 24, saying that from a prevention perspective, we need to address crime by those in the high crime cohort. Skolnick added that since over half of all violent offenders are under the influence of alcohol and drugs at the time of their arrest, drug treatment needs to be a key component of our correctional system. He cited research on crime patterns, and observed that violent, random crime is what drives public fear, even in jurisdictions where crime rates tend to be low or declining. "Fear of crime is perceptual," Skolnick said.

Skolnick said that the Senate crime bill attempts to address the large numbers of young, violent offenders, but "stumbles with its rigidified sentencing system. By incarcerating large number of young offenders without parole and often without rehabilitation, you've bought into the most expensive

taxpayer-supported middle and old age home in the history of the world," he declared. Skolnick used drug dealing as an example of the ineffectiveness of tough sentencing, saying that those engaged in drug selling do not make rational calculations and "live in a world that is already more threatening than any prison and continually threatens street imposed death penalties."

Skolnick concluded by telling the gathering: "We must distinguish between the urge to be retributive and the strategies and tactics of crime prevention. The criminal law is a blunt and largely ineffectual instrument of public protection. It deters some, it does incapacitate others, and it surely punishes. But if we are concerned primarily with public safety and crime prevention we need a larger strategic vision and tactics that have been researched and tested."

Doris MacKenzie, Research Scholar in the Department of Criminal Justice and Criminology at the University of Maryland, College Park, discussed boot camps as a specific example of crime control mechanisms under consideration by policy-makers. Outlining her research on the topic, MacKenzie said "it is not an easy question" to say if boot camps are effective and gave an overview of the goals and differences of programs. The two main goals, she said, are to make changes in offenders and to reduce prison overcrowding. The programs tend to target young, non-violent offenders and run from between 90 to 180 days in facilities ranging from 36 to 1,500 beds. Some states have separate camps for women. The core components of boot camps are: a military atmosphere, drill and ceremony, physical training, and hard labor. Key differences are: type of rehabilitation programs, level of decision making given to offenders, type of release supervision, voluntary versus involuntary stay, and the location of the camps.

According to MacKenzie, researchers seek answers to the following questions when studying boot camps: Do they deter crime?; Rehabilitate offenders?; Reduce recidivism? Reduce prison crowding?; Change young offenders? She said boot camps started in 1983 in Oklahoma and Georgia and have spread rapidly at the state and local level, with a few federal facilities as well. Her own research on measuring recidivism shows it varies with the how one defines recidivism, type of offenders in the camps, drop-out rates, length of program, and levels of rehabilitation. MacKenzie said that the biggest influence on reducing prison overcrowding is whether those in boot camps would have been sent to prison if the camps had not existed. This varies greatly from state to state, she said.

In her conclusion, MacKenzie said that boot camps are still experimental, some positive things do occur in some programs, careful designs can reduce prison overcrowding if they are part of an early release mechanism, and that the programs currently in effect have a "questionable impact" on recidivism and other activities after release. Saying, "I wouldn't throw them out," MacKenzie said that the issue needs further evaluation with an emphasis on looking at the specifics of different programs.

Hubert Williams, President of the Police Foundation and former Director of Police in Newark, New Jersey, addressed the gathering on the importance of research in policing from a practitioner's perspective. He noted that the education levels of police have rapidly increased, and that the police community has begun to take a positive view of and implement the findings of research. Williams urged a major evaluation of crime in America and the effectiveness of our efforts to fight it, saying "we need to know what works and what doesn't."

He noted the effect of an early study showing that motorized police patrols did not work because the officers were viewed as too distant and were not noticed by the public. Following up on this study, Williams said, the National Institute of Justice undertook a study in Newark showing that foot patrols did not affect crime rates, but made people feel safer. This study, he commented, led police leaders to observe that maybe police have an impact that is not related to stopping or preventing crime. According to Williams, police officials learned from researchers that citizens feel safer when police are engaged in a type of policing that is interactive, positive, and non-threatening. He said it reduces fear and enhances the public's perception of police.

Williams called up on researchers to help future policing strategies by studying and evaluating community oriented policing. He urged a study of ways to eliminate "hierarchical, quasi-military" models of police structure and to empower police with the resources needed to interact with the community. Lamenting that this vision goes against long traditions in police work, Williams spoke of the need to "tailor police strategies to diverse populations -- old strategies won't work anymore." Specifically addressing the Senate crime bill, Williams urged research on how to most effectively use the 100,000 new police officers called for in the crime bill.

Adler offered brief concluding and synthesizing remarks, commenting that the Senate crime bill is based on the assumption that "tough is smart" and that this has not been validated by research. She lamented that the bill does not rely on science, and urged the House to add research and evaluation mandates to the bill. Adler concluded that the criminological community stands ready to help policy-makers in their anti-crime efforts.

A lively question and answer period followed, with discussion on evaluation research, gun control, and sentencing patterns.

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#### STATEMENT OF DAN STEIN, EXECUTIVE DIRECTOR, FEDERATION FOR AMERICAN IMMIGRATION REFORM

Mr. Chairman, members of the subcommittee, thank you for the opportunity to appear on behalf of the Federation for American Immigration Reform. My name is Dan Stein and I am Executive Director of FAIR. FAIR is a national non-profit membership organization, working to end illegal immigration, and to reduce legal immigration to a level consistent with long-term national population stabilization and the national need.

Over the past several years, a number of laws have been passed by Congress which require more and more of INS. The Immigration Act of 1990 added many unanticipated burdens to the INS. It resulted in increasing legal immigration by 40 percent, the equivalent to several hundreds of thousands each year. Most of the new immigrant allocations require the filing of petitions and other applications with the INS, adding to already-mountainous backlogs with no consistent in personnel or other resources.

Along with the increase in immigrant numbers, the 1990 law directed INS to increase its enforcement and deportation processes especially against criminal aliens. (Criminal aliens make up 25% of the federal prison population.) While removal of criminal aliens from our society, especially those who are particularly violent and vicious, is commendable and necessary, INS cannot accomplish this essential and difficult task without expansion of resources. Although the 1990 Act authorized increases in personnel and resources, there was no companion appropriating legislation. We anticipate that this dichotomy will again occur this Congress. Although legislation has been passed to increase the Border Patrol, the money to fund such increases must also be appropriated.

#### INS Mission

The primary purpose for the Immigration and Naturalization Service to exist is to enforce the immigration and naturalization laws of the United States. INS has in fact but one function - to ensure that the people who enter our country are legally entitled to do so, and to insure that those not legally entitled to enter are barred.

#### The ever-growing workload at INS and poor planning

For years the INS has faced an ever-growing and overwhelming workload. This is partly because Congress persistently underestimates the effects of changes in immigration rules.

In the early 1960's, then-Attorney General Robert Kennedy promised Congress that the Immigration Amendments of 1965 would not increase immigration significantly, which at that time was 250,000 people annually. He was completely wrong. The law has produced steadily increasing immigration well over that number. In fact, in almost every case, the numbers predicted by a bill's sponsors prove to be underestimated. Passage of both the 1965 and 1990 acts have resulted in approximately one million new immigrants settling in the country every year.

Little of what is happening to the INS has happened by accident. This country's failure to develop a sensible immigration policy and the propensity of the Congress to make law on immigration without regard to the ultimate consequences are the main contributors. The piecemeal approach taken by Congress has produced mixed messages and conflicting signals that have weakened the enforcement structure and produced incompatible priorities. Burgeoning responsibilities and inadequate resources has left the INS incapable of enforcing our immigration laws and the system is rampant with fraud. Although there have been increases of resources

to INS, those increases barely have covered the costs of inflation let alone the burgeoning workloads and caseloads.

#### INS: The stepchild in automation

Computerization is a modern tool that could make INS more productive and effective; and, while computers are now in use at INS, they are not used efficiently or effectively. Several non-integrated computer systems exist wherein specialized narrow-task systems only serve one or two operational segments without communicating with systems that serve other segments. An alien can be in one system as scheduled for imminent deportation while another system carries the same alien as an adjustment to permanent immigrant status.

Audits often suggest that some INS information and financial systems are antiquated, unreliable or nonexistent. For instance, we are particularly interested in the application of the employer sanctions provisions of IRCA. According to the September 1990 GAO report, Information Management: INS Lacks Ready Access to Essential Data, "... in investigating employers, INS cannot easily get information on the type of business, its size, number, and type of violations by industry, and the fines assessed and collected. Because this information is manually collected and not readily accessible, program officials said that they could not effectively adjust or target the field's effort to enforce compliance or educate employers about the act's requirements."

This type of information can easily be collected and entered into automated systems. The same basic input systems could be used for tracking criminal aliens, deported aliens, alien benefit applications, fine and bond breach collections, general financial management and other matters. And, it would not take a highly sophisticated computer setup to both integrate and distribute data throughout the agency.

According to the 1990 GAO report, INS "... maintains automated records on over 23 million aliens plus 30 million non-immigrant students and visitors. ... along with "... management and programs data [which] are kept in over 120 information systems ranging from large, complex, centrally developed systems to small computer applications used in field offices. In addition, there are many individually developed manual information systems." Despite this repository of data the report states that INS has virtually no accurate data available to it in any category.

For example, the INS has little ability to track non-immigrant entry and departure data effectively. Yet with a little reorganization and use of modern technology, this could be simply accomplished at time of entry. Now, airport inspectors on the spot punch into a computer system a name and identifying characteristics of entering persons as part of the inspection process. (This is done to check for known excludable aliens and persons "wanted" by various law enforcement agencies in the INS NAILS and Customs TECS "lookout" systems.) After the "look-out" system is queried, the information is dropped from the computer system and wasted. By obtaining data from airline booking and ticketing computers (something already being done) and feeding it into INS computers (not being done), the INS could produce machine-issued and machine readable travel documents for every visitor. Most beneficial would be the fact that this computerized record would exit from the very moment a visitor enters the U.S. If a reason to count or track certain nonimmigrants, (as has happened in the past with Iranian and Libyan students), then that information would be immediately accessible.

In the case of alien admissions, the information keyed in could be used to produce a transaction record of every person inspected and at the same time produce a secure admission imprint on the I-94 form by electronically recording identity of aliens along with types and lengths of admission. The data collection and recording could all be done in one process at the time of inspection. This would replace today's system in which I-94 forms are collected from non-immigrants and sent in batches to a contractor to be keyed into a computer system at some distant location.

#### Asylum Abuse

The abuse of U.S. asylum laws has reached epidemic proportions. Asylum claims are being used as an effective method of avoiding the long wait for legal immigration, evading employer sanctions requirements, and escaping deportation. Although, the World Trade Center

bombing and the CIA shooting memories are fading, Congress should not let its interest in this potentially murderous scam wane.

No one can argue against the concept of providing refuge and protection to those who truly face persecution for their political or religious beliefs. But, as in the case of marriage fraud, asylum has become an avenue for malfeasance. Aliens who can find no other way to enter the U.S. are now making patently fraudulent claims of asylum in such astounding numbers, the volumes overwhelming the resources of the INS and Immigration courts. In 1993, more than 150,000 aliens requested asylum in the U.S. INS, even with a special asylum unit, was able to process only approximately 42,000 cases. Of those processed, half did not show up for their interviews, only 11% were approved and 39% were denied.

Congress must overhaul U.S. asylum laws immediately in order to provide, among other things: summary exclusion of patently fraudulent claims and more streamlined hearing proceedings.

#### Why does the border leak so?

The Border Patrol, the uniformed enforcement arm of the INS, has the responsibility of enforcing the immigration laws along almost 6,000 miles of land border, much of the Gulf Coast, and the sea coasts of southern Florida and Puerto Rico. Much of the territory it must cover is remote, rugged and unfriendly. Some areas of responsibility are densely populated, presenting their own dangers and challenges. This would be a daunting task for several military divisions, yet it is performed by a contingent of officers smaller than the police force which patrols the New York subway system.

The only way such a small force can possibly hope to fulfill its assignment is in maintaining a full complement of personnel, state of the art equipment and complete mobility. Yet the Border Patrol and other INS law enforcement functions chronically suffer from shortages of personnel, technical equipment and serviceable vehicles. The shortages arise from both administrative mismanagement and congressional inattention. All too often funds appropriated for the Border Patrol are viewed by INS management as a tempting resource from which funds can be reprogrammed for non-enforcement activities. Congress, on the other hand, perennially authorizes sensible increases in personnel for the Border Patrol but never funds them. Add to it the policy of removing apprehended aliens only to the border, and the net result is a border that is totally out of control. Anyone who is persistent and patient enough can eventually successfully cross it illegally.

Allowing this situation to persist amounts to an unconditional surrender of our national sovereignty. We must secure our borders, and it can only be done by providing the Border Patrol and other enforcement functions with adequate personnel and resources.

#### Detention and Deportation

In recent years, three patterns have emerged relating to detention and deportation of aliens; 1) detention space and resources have fallen far behind demand; 2) aliens receiving final deportation orders have been on the rise; 3) the number of aliens actually deported has declined. These three trends are all symptoms of a system that is overloaded.

Because of a lack of detention space, the INS is forced to release thousands of apprehended and excludable aliens every year. These include the thousands that are arriving without papers at U.S. airports, as well as the apprehended aliens who have been judged deportable. These excludable or deportable aliens must be released if there is no detention space — often with INS-issued work authorization documents — and most disappear into society, never to be heard from again.

Both detention and deportation of those persons who are not legally eligible to enter the U.S. are essential to effective immigration enforcement.

#### FAIR's Recommendations

As this committee well knows, the INS can only obtain funding from this Congressional committee. Unfortunately, the Congress, as a whole, over the past few years has had no hesitation in increasing the INS burden not only in respect to responsibilities but also in the numbers of people the service is expected to process each year. However, Congress has not

increased the agency's resources to a comparable level. Therefore, it is no wonder that our immigration process is out-of-control: unprecedented numbers of illegal immigrants, overwhelming numbers of legal immigrants, a growing backlog, and extensive abuse of our asylum system and employer sanctions provisions.

Congress and the Executive Branch have promised the American people to start taking border enforcement seriously. President Clinton asked that Congress authorize an additional 1,000 agents for the borders. Just last week, the House of Representatives added the Hunter amendment to the Crime bill increasing the number of Border Patrol up to 10,000 agents over the next few years. However, before these agents can become a reality, the money to pay, train and equip them must be appropriated by this committee. Unfortunately, the budget submitted by the INS contains a decrease in expenditures for the Border Patrol. In fact in both the 1988, and 1990 acts, Congress authorized increasing the number of border agents to 6,600. The money has never been appropriated.

The basic underlying principle is this - no matter how well-managed, or how well operated the INS is, or what new measures are authorized by the Congress, without the necessary appropriations backing the changes, the INS is not going to be able to be more effective or efficient. Our immigration laws will be flagrantly violated and our immigration system will continue to spin into utter chaos.

#### What are adequate resources?

Although INS is requesting more funding for FY 1995, for its enforcement division, than it was appropriated in Fiscal Year 1994, this funding is not adequate to maintain current activities. Under INS' current budget request, the agency will still lose 7 inspection officers, 3 detention officers and 11 Border Patrol agents. In addition, the training funds for Border Patrol agents, already inadequate, would be further reduced by \$87,000.

If past appropriation decisions are any indication of what INS will ultimately receive, we can assume that it will once again receive inadequate funding. For example, in 1994, INS received an enforcement budget \$31 million less than the agency requested. This resulted in a loss of 163 inspectors, 37 investigators, and 47 deportation officers.

To fulfill Congress' promise of an additional 1000 Border Patrol agents, this committee must add approximately \$800 million to the INS budget. The President has also promised the American people a doubling of the asylum officer corps, an increase in immigration judges, money to fingerprint illegal aliens, and an expansion of the El Paso Blockade. In all honesty, INS' budget must be almost doubled to fulfill promises to effectively control our borders.

An increase in the INS budget of \$1.1. billion is required to double our border enforcement capability. According to INS estimates, two people escape for every one person apprehended trying to illegally cross the border. Doubling our number of Border Patrol agents is the most cost effective method for enforcing our nation's borders. Prevention of entry is cheaper than interior enforcement measures.

There is an untapped source of funding: new border crossing fees, which FAIR has advocated for five years, could add hundreds of millions of dollars to INS enforcement, investigation and detention efforts.

Most of the money for increasing INS's border capabilities could be generated through a small border crossing fee. As FAIR testified before the Subcommittee on Information, Justice, Transportation, and Agriculture of the House Committee on Government Operations last August, an average \$2 fee per crosser, based on the 400 million land border crossings in 1991, would generate about \$800 million per year. In the first year alone, the infrastructure for the fee system would be paid for as well as the additional promised 1000 Border Patrol agents. Since there has been a continuing trend over the last several decades of increasing entries, even greater revenues can be anticipated. In fact in 1992, over 500 million land border crossings occurred. Clearly, such revenues would provide funds that cannot be provided by general tax revenues in today's fiscal climate.

Without the adequate resources the recent promises made by the Congress and the President to the American people ring hollow.

INS' resource needs can more effectively be lowered through comprehensive reform legislation which has been introduced during this Congress. The first step is implementing a moratorium on immigration. H.R. 3862, The Immigration Moratorium Act would provide the U.S. with a temporary time-out on immigration. During the moratorium we could implement immigration policies that would bring our immigration down to more manageable levels.

The second step is H.R. 3320, the Immigration Stabilization Act. This comprehensive reform legislation would extensively revise, streamline and strengthen the enforcement provisions of the asylum process, employer sanctions, deportation of criminal aliens, border security and would cap legal immigration at no more than 350,000 per year.

However, until a moratorium and comprehensive reform legislation has been passed, INS must receive adequate resources. I urge this committee to provide the adequate appropriations that INS requires to carry out its mission - enforcement of our immigration laws.

LETTER FROM JACK O'MALLEY, STATE'S ATTORNEY, COOK COUNTY,  
CHICAGO, IL

May 12, 1994

Subcommittee on Commerce, Justice, and State,  
the Judiciary, and Related Agencies  
Appropriations Committee  
United States Senate  
S-146A Capitol Building  
Washington, DC 20510

Dear Senators:

I urge you to restore the Edward Byrne Memorial State and Local Law Enforcement Assistance Formula Grant Program to at least its FY 1994 level in the FY 1995 appropriations. State and local law enforcement agencies throughout the United States stand to lose up to \$358 million in annual grant funding for cutting-edge law enforcement and crime prevention programs if the Byrne grants are cut. Unfortunately, community policing is not an adequate substitute for these Byrne grant programs. As the head of the second largest prosecutor's office in the nation, president of the Illinois State's Attorneys Association, and a board member of the National District Attorneys Association, I know first-hand that innovative Byrne grant programs are some of the strongest and most efficient weapons in a prosecutor's arsenal for combatting crime.

Cutting the Byrne grants is misguided and will have disastrous effects on some of the most innovative crime fighting programs throughout the United States. Through the use of Byrne grants, state and local law enforcement officials have established multi-jurisdictional task forces to combat drugs, funded attorneys to prosecute crime, developed community based treatment for drug-addicted prisoners, and initiated anti-violence programs.

The reduction of the Byrne grants will end or radically curtail these highly successful and nationally recognized programs across the country. For example, a Byrne grant program run by my office in Cook County, Illinois, is the Multi-Jurisdictional Task Force, which combines prosecutors, police, and sufficient resources to proactively target upper level drug kingpins. In the past year the Task Force has investigated, arrested, and prosecuted 264 defendants, seized \$358,626.35, and crushed the gang hierarchies and their drug sales in numerous Chicago neighborhoods.

Multi-jurisdictional programs are more effective than community policing in targeting narcotics operations. History has shown that removal of street dealers has no long term effect on drug distribution. However, removal of upper echelon kingpins through multi-jurisdictional task forces has a devastating and permanent effect on narcotics distribution networks.

Another successful Byrne grant program administered by my office is the Narcotics Nuisance Abatement Unit (NNAU). This program has facilitated the closing of over 700 Cook County drug houses in the past two years and has been recognized as a model program for community based anti-drug efforts by the President's Commission on Model State Drug Laws and the American Prosecutor's Research Institute. In addition, an independent study by Loyola University of Chicago concluded that "NNAU is a bargain compared to more traditional methods of neighborhood drug enforcement involving police surveillance, undercover drug buys, arrests, and prosecution." Byrne grants are essential as we attempt to stop drugs and violence in our communities through cost-effective programs and prosecution.

On a national level, the Clinton Administration's decision to favor community policing at the expense of the Byrne grant program is unwise and dangerous. A single federal strategy of hiring more police officers ignores the unique needs of local communities. State and local agencies possess years of experience in tailoring programs to meet the special needs of their areas, and they need Byrne grants to develop and continue the most promising law enforcement programs available.

The Administration's proposal to add 50,000 police officers while simultaneously withdrawing resources from other parts of the criminal justice system through elimination of the Byrne grant program is also short-sighted and costly. Front-loading the justice system with police on community patrol will result in more arrests, but not provide additional resources for the remainder of the already overburdened criminal justice system. The Illinois Criminal Justice Information Authority calculates that 1,000 additional community police officers in Illinois would arrest more than 3,700 felons annually. These felons would cost the remainder of the system an additional \$36 million each year in prosecution, imprisonment, and probation. Provision of community police officers without support for prosecution and punishment is tantamount to an unfunded federal mandate.

Clearly, this is no time to withdraw critical assistance from state and local agencies. Rather, it is time to build on successful and innovative programs. The public has placed crime at the top of the agenda, and Byrne grant programs provide many of the newest, most effective, and most efficient approaches to crime control.

Sincerely,

  
JACK O'MALLEY  
State's Attorney of Cook County

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STATEMENT OF ALEX HATALA, CEO, OUR LADY OF LOURDES MEDICAL CENTER

Thank you, Mr. Chairman, for the opportunity to submit testimony on behalf of Our Lady of Lourdes Medical Center.

Our Lady of Lourdes Medical Center is a 375-bed hospital in Camden, New Jersey that provides both primary and tertiary care services to the residents of Camden County and the surrounding region. With 1,800 employees, Our Lady of Lourdes is the fourth largest private sector employer in Camden County. Close to 90% of the Medical Center's patients come from Camden County and the two surrounding counties of Burlington and Gloucester. Lourdes, with a history of service and commitment to addressing the critical needs in the Camden area, is a national health care leader in community benefits programs and community development activities.

The Franciscan Sisters of Allegany, New York opened the doors to Our Lady of Lourdes Hospital in Camden, New Jersey on July 1, 1950. Since the 1950's, Lourdes has had a strong tradition of providing excellent primary and secondary care to people in the City of Camden and the surrounding communities. In the 1960's, Lourdes found its mission being challenged by the severe erosion of the economic base in the City of Camden. The Franciscan Sisters could have left Camden, but instead they reaffirmed their commitment to the community by undertaking major renovation and expansion programs at the existing Camden facility, beginning in the 1970s. In order to remain financially viable, the hospital further developed tertiary care services, particularly cardiac care. Thus, the hospital evolved into what it is today -- a dominant provider of primary care for residents of Camden as well as a premier provider of specialty care for all the residents of southern New Jersey.

In sharp contrast to the prosperous Camden, New Jersey of 50 years ago, Camden today is a city stricken by economic deprivation, massive unemployment, high incidence of drug and alcohol addiction, infant mortality, violent crime and multiple health deficiencies. The city's problems are not simply medical, economic and social in nature, but are multi-dimensional. In Camden, daily life is a test of basic survival where residents have limited resources to cope with such hardship. The gravity of Camden's problems have been well documented in a number of national studies. Camden has been identified as the most economically depressed city of its size on the East Coast and the fifth most depressed in the nation.

Camden is the seventh largest city in New Jersey and the largest in Camden County. The City of Camden's current population is 87,492. Camden is 56.4% African-American, 31.1% Hispanic, 18.9% Caucasian, and 1.3% Asian. Camden has the lowest per capita income of any New Jersey municipality. Its median income is \$800 below the federal poverty definition of \$8,076. Almost two-thirds of Camden's population is receiving some form of financial assistance and nearly one-half of all families are headed by females. Virtually 40 percent of Camden households have no employed family members. At 22 percent, Camden's unemployment rate is more than twice the State rate.

Camden is like other northeastern American cities which have suffered from the economic collapse of industries and businesses in the past 30 years. Camden is, however, unique in that nearly half of its population is under the age of 25. This reality is attributed primarily to the City's extremely high birthrate. In fact, 61 percent of Camden's children live below the poverty line. Infant mortality is often regarded as the single most telling indicator of an area's quality of life. If this is so, then Camden is certainly a city in crisis. Teenage pregnancies, limited prenatal care, premature births, poverty and drug use all contribute to Camden's high infant mortality rate, which at 19.8 percent is more than double the State rate of 8.7. Of those babies that live, one in every four is born drug addicted or drug exposed.

Camden's educational statistics also reflect the deprivation and turbulence in which so many of Camden's children live. Nearly 69 percent of Camden teens drop out of high school. With little hope of improving their lives, many turn to drug dealing and prostitution to earn a living. Drug and alcohol abuse among Camden teenagers is estimated at 42 percent. Ninety percent of all drug arrests in Camden City are made in school zones.

As would be expected in a city plagued with so many economic and social problems, Camden health indicators are equally dismal. The State of New Jersey rated Camden as the highest medically underserved area in New Jersey. This rating was determined by planning statistics which have consistently shown the City of Camden to have such indicators as high infant mortality rates, high percent of teen births, inadequate prenatal care, preventable hospitalizations, and high years of potential life lost. Only 32 percent of preschoolers are fully immunized. Syphilis and gonorrhea rates in Camden are more than 6 times the State average. Though not at crisis levels, the incidence of HIV is increasing in the area. Camden residents also experience higher than average rates of hypertension and diabetes.

Camden has few primary health care services to address these problems. Other than those doctors associated with hospitals, Camden has a paucity of committed physicians who practice in the City. In fact, Camden does not have a single privately practicing pediatrician. In addition, Camden City is 70 percent above county and state rates in the number of ambulatory care sensitive admissions -- admissions which with proper primary care would have been preventable.

#### Working to Revitalize Camden

Our Lady of Lourdes Medical Center is a major participant in the economic revitalization of the City of Camden and a major force to help increase the momentum of urban renewal on a programmatic planned basis. This effort is a multi-faceted approach to solving community problems and to revitalizing the City of Camden. It is an urban reclamation project to rebuild the homes and lives of residents while also drawing businesses and industries to the City of Camden.

Our Lady of Lourdes Medical Center, in partnership with the University of Medicine and Dentistry of New Jersey and the Camden Board of Education, is developing a Camden Clinical Campus to be built on Our Lady of Lourdes property. The proposed site of the Ambulatory Care Center is eight acres along Haddon Avenue across from the existing Medical Center. Together, the project partners propose to develop this site for new health care, education, and ancillary facilities that will serve the Camden community. A total of 464,452 gross square feet will be needed for the Ambulatory Care facility, a linking corridor, plus a 1,000 - 1,500 space parking facility. Limited parking availability at the Medical Center will pose increasing difficulties for an expanding patient base, especially with the rise in outpatient services. The project will also include a Community Mental Health Center and Medical Arts High School. The Medical Arts High School will offer special opportunities to students interested in medicine by combining fundamental training in basic sciences and human services for preparation of health care professionals. The estimated total project cost is \$125 million.

The Ambulatory Care Center will include the following services:

- |                                       |                               |
|---------------------------------------|-------------------------------|
| • Ambulatory Surgery/Procedure Suites | • Home Health Services        |
| • Primary Care/Outpatient Clinics     | • Rehabilitation Services     |
| • Outpatient Testing Services         | • Dialysis Services           |
| • Preventive/Outreach Services        | • Child Development Services  |
| • Child Care Services                 | • Women's Health Center       |
| • Wellness Center                     | • Adolescent Programs         |
| • Administrative/Medical Services     | • Family Practice & Geriatric |
| • Senior Services                     | Residency Programs            |
| • Medical Arts High School            |                               |

The proposed project pulls together these major outpatient services in one location and permits full integration and expansion of ambulatory services which are sorely needed by the residents of the City of Camden as well as the surrounding environs. The current facility lacks appropriate space to handle the growing needs of the Camden community for ambulatory services. Existing services that will be integrated into the new facility are currently scattered across the Medical Center campus in buildings designed for very different uses or in other locations throughout the county. The existing facilities are 25 to 35 years old, functionally inadequate, undersized and substandard for their current uses. Consequently, the ability to provide the various outpatient services in an integrated manner within the existing space on the site is severely compromised.

The collective expertise of these entities and the integration of their programs, staffs and resources in one location will benefit the citizens of Camden County and surrounding areas in many ways. Among the greatest benefits to result from the Clinical Campus are:

1. Job Creation

During the four-year construction phase, this 300,000 square foot, multi-facility complex will create at least 300 new jobs, with total wages over the construction period estimated at \$22 million and area spending attributable to the campus projected at nearly \$90 million. When completed, the complex will provide an estimated 775 permanent jobs, with annual wages of \$18 million and annual spending of over \$44 million.

2. Career Training for Camden residents

Medical and technological advances, which continue to improve the quality of life and extend life expectancies, demand superbly trained, highly educated health care professionals. While nationally the physician supply is adequate, there are critical shortages in many allied health fields -- shortages that are projected to become even more severe over the next decade.

3. Improved health care for the Camden area

The health and socioeconomic conditions under which many Camden residents live (i.e., infant mortality, teen pregnancies, percentage of children living in poverty, unemployment, etc.) are deplorable. These issues will be addressed by expanding current outpatient medical services by bringing new, needed programs to the city. Many of these programs will stress prevention and serve to help keep people out of the hospital, thus helping to reduce New Jersey's health care costs.

**Commitment To the Community**

Despite the difficult conditions we face, Our Lady of Lourdes Medical Center has been a leader in providing quality primary and tertiary health care services to benefit the Camden and the Southern New Jersey community. Lourdes is committed to serving the sick with compassion and understanding, respecting the dignity of the individual patient, regardless of race, creed, color, handicap or financial status. Throughout its history the Medical Center has served a dual mission of primary care to Camden City and tertiary care to southern New Jersey. Our Lady of Lourdes provides a significant amount of charity care to its service area residents. In fact, the amount of charity care provided in 1992 was nearly double that which was provided in 1991. In 1991 the Medical Center provided \$926,188 in charity care. This rose to \$1,707,427 in 1992. In addition to charity care, the Medical Center serves a large Medicaid population. In 1991 the amount of Medicaid services provided was \$17,358,422 and in 1992 the amount was \$20,622,415.

Our Lady of Lourdes' dedication to the Camden community is evidenced by the following examples:

**Community Benefit Program:** Our Lady of Lourdes has developed several active committees composed of internal representation from all levels and community representatives including citizens, school personnel, and County and City government officials. These committees work on a variety of issues to benefit the community at-large. Lourdes consistently receives national recognition for its outstanding community work. For example, in 1992 and again this year, Lourdes was selected to be among the top four in the nation for the American Hospital Association's distinguished Foster McGaw Award for Community Service.

**Senior Services Program:** Among the reasons for longer hospital stays, repeated visits to the emergency room, and early institutionalization in nursing homes is lack of in-home support. The support patients need is often non-medical in nature, such as transportation, shopping, light housekeeping, etc. Since these services are non-medical, they are not covered by insurance and if provided by a private agency, these services are prohibitively expensive. With this in mind, Lourdes Senior Services were developed to strengthen the needed continuum of care for the elderly, using trained volunteers to provide services at no cost to those in need.

**The Bridge:** The Bridge is a nationally recognized teen program which brings together youth to promote a safe and healthy lifestyle. The Bridge is not crisis oriented. Rather, it stresses adaptive behavior, independence, and responsibility for actions. The goal is to reduce dysfunctional behavior and substance abuse among the high risk youth of Camden. The program primarily serves low-income, minority, high-risk youth on the Lourdes campus and at thirty area schools. The program, which provides one-on-one counseling and family mentoring for teens with particular problems, reaches approximately 24,000 youths annually.

Uniting the medical and community service strengths of Our Lady of Lourdes Medical Center, the University of Medicine and Dentistry of New Jersey and the Camden Board of Education on the same clinical campus provides several unprecedented and valuable opportunities for the City of Camden. Implementation of this project will:

- motivate and prepare inner-city youth for important, well-paying health care careers that are in demand locally and nationally;
- create hundreds of new jobs, prepare Camden residents to take these jobs, and infuse tens of millions of new dollars each year into the area's economy;
- develop a network of comprehensive, accessible, cost-effective primary care and preventive services that improves the health status of area residents and reduces overall health care costs.

At the completion of this project, Our Lady of Lourdes will again have further affirmed its commitment to the residents of the City of Camden and the surrounding region. The outpatient services included within the Urban Clinical Campus are ones which clearly address primary health care needs as well as specialty services. Our Lady of Lourdes Medical Center recognizes that this proposed project allows it to develop the capacity to expand its outpatient services along with its regional and community based inpatient services. This dual track strategy is considered necessary to succeed in improving the health and socio-economic status of the Camden community.

We are aware of this Subcommittee's work in fostering worthwhile economic development initiatives for needy urban areas. Therefore, we are requesting that you include \$3 million in the FY 1995 Commerce, Justice, State, the Judiciary, and Related Agencies Appropriations bill for Our Lady of Lourdes' Ambulatory Care project which is part of the economic revitalization effort for the City of Camden, New Jersey.

Thank you, Mr. Chairman, for your consideration of our request.

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STATEMENT OF JOHN. PETER, PRESIDENT AND CHIEF EXECUTIVE OFFICER, KIDSPACE NATIONAL CENTERS FOR KIDS IN CRISIS

Mr. Chairman and members of the Subcommittee, thank you for providing me with this opportunity to submit a statement for the record. In my statement, I will discuss a crisis facing America's kids, the need for additional out-of-home programs to assist kids in crisis, particularly those who have found themselves in this nation's juvenile justice system, as well as tell you about KidsPeace and what we are doing to address the problem. Specifically, KidsPeace is seeking the support of this Subcommittee to expand through the auspices of the Office of Juvenile Justice and Delinquency Prevention its community-based, out-of-home program for kids in crisis.

The American family is facing a crisis that has been brought about by the turmoil and stress of modern society. Among the problems American families face are: increased economic burdens, greater numbers of households in which both parents work, and an increase in the number of single-parent families. These problems are complicated by

rampant violence in our communities, drug and alcohol abuse, child abuse and neglect, inadequate child care, and an overburdened education system.

The combination of all of these factors has produced a serious casualty: America's kids. Children must be taught to cope with stress through love, nurturing and general support. When families fail, children are often left to cope alone. The results have reached epidemic proportion in the form of the so-called "parenting gap," and increases in behavioral and developmental problems in children, which can often lead to interaction with the nation's juvenile justice system.

The portrait of America's children in crisis is a painful one, and one that many Americans are afraid to acknowledge. In the United States:

- 1,338,100 juvenile delinquency cases were reported in 1991.
- 400,000 children drop out of school each year.
- In 1993, 2.99 million children were burned, abandoned, beaten and raped every year.
- In 1993, 1,299 children died as the result of abuse.
- One out of every three girls and one out of every five boys will be sexually abused before they are 18 years old.

The solution to help America's kids in crisis is not an easy one. The foundation of the solution must be a national network of services that is capable of providing treatment that is appropriate to the individual child. For too long, many kids in crisis have been placed in inappropriate treatment environments. However, KidsPeace has devoted itself to providing a safety net for children.

#### **WHAT IS KIDSPACE**

KidsPeace National Center for Kids in crisis is a private, non-profit organization dedicated to prevention and treatment of crisis caused by abuse, neglect, and emotional distress. The organization has 31 different increasingly intensive services for children from birth to age 21 and will also custom-create a program to meet the personal needs of an individual child. KidsPeace maintains that 81 percent of the children successfully complete their residential programs, and 74 percent of these graduates live in less restrictive settings two years after discharge.

KidsPeace treats more than 2,000 children a day from all across the country, employing 1,500 caregivers in 25 locations in five states. KidsPeace, founded 111 years ago, has its headquarters in eastern Pennsylvania. This unique campus houses some of the organization's residential programs, the National Hospital for Kids in Crisis, the Lee Salk Center, and an array of education, recreational and therapeutic facilities for its clients.

Among the various services it offers, KidsPeace has made a commitment to expand its community-based programs. These programs are specifically designed for children and youth who are most appropriately served by out-of-home placement, but who do not require hospitalization or placement in residential programs. As such, KidsPeace is seeking to expand nationally its existing Intensive Treatment Family Program.

#### **INTENSIVE TREATMENT FAMILY PROGRAM**

The Intensive Treatment Family Program (ITF) is an innovative approach designed to provide individualized, treatment foster care to seriously emotionally disturbed children and

adolescents in a therapeutic family setting. Treatment foster care is differentiated from traditional foster care in that treatment foster care is a community-based treatment option in which treatment occurs primarily in the foster home. In short, the foster family is not simply a care taker, but an active participant in assuring a child's progress and growth in the program. At present, treatment foster care represents only 25 percent of all foster care programs.

**The KidsPeace Approach:** KidsPeace began its ITF Program in 1979. We currently operate 11 separate programs in Pennsylvania, Indiana, Georgia and New York. The ITF Program specifically addresses each child's behavior, developmental and emotional problems to modify the causes or conditions for placement so that the child is able to return to his/her own family, or if that is not possible, can be placed in an appropriate permanent setting. Through its ITF Program, KidsPeace traditionally works with at-risk, hard-to-place and special needs children who are in need of initial out-of-home placement, who have been in more restrictive programs or who have not succeeded in previous traditional foster care homes. Specifically, the program accepts children who are: 1) Adjudicated as juvenile delinquent, 2) Behavior disordered, 3) Sexual perpetrators, 4) Substance abusers, 5) Victims of physical, sexual or emotional abuse, 6) Socially and/or emotionally disturbed, and 7) Developmentally delayed or disabled.

These children are referred to the program by the juvenile justice system, state and local child and youth agencies, mental health agencies, and private third-party entities. KidsPeace currently estimates that half of the referrals to its program come from the juvenile justice system. In nearly all cases, the children referred to its programs are placed there through the court system.

The objective of the ITF Program is to provide each child with a team-oriented treatment plan that will develop the child's positive social, emotional and educational growth. As such, the program is goal-oriented, developmentally-focused and time limited. Generally, a child is in the program for 12 to 18 months.

Once accepted into the program, the treatment team -- which includes the foster family, the ITF social worker, his/her supervisor, and other consultants, as needed -- develops an Individual Service Plan. As part of treatment, each child of school age attends school in appropriate community-based educational facilities.

Unless otherwise prescribed, the child's natural family is an integral part of the program. There is regular communication between the parents and their child, and the treatment team involves the parents in the child's care. In addition, the parents may receive direction from the treatment team to services and other resources to mitigate the causes of the child's placement in the ITF Program.

Due to its central role in treatment, the foster family must undergo intensive screening and training before a child will be placed with the family. All family members, including children, are strongly encouraged to take part in the training. Among the topics covered in the training are: The treatment family's role as part of the treatment team, Treatment family adjustments, Emotional disturbances/behavior problems, Parenting strategies/treatment techniques, Discipline v. punishment, and Cultural competence. In addition, treatment families are required to have training in the following areas: first aid/CPR, crisis prevention and intervention, behavior modification, and positive discipline techniques.

#### **ITF: A COST-EFFECTIVE ALTERNATIVE**

While helping kids in crisis is the primary objective of the Intensive Treatment Family Program, the program also provides a cost-effective venue for treating children and youth. When the juvenile justice system renders a decision to place a child in an out-of-home program, it essentially has the following options for placement: 1) a secured facility,

such as a jail or detention center, 2) an in-patient program, 3) a residential care facility, and 4) intensive treatment family programs. Most often, the juvenile justice system opts to place a child in a residential care program. In 1991, for example, the juvenile justice system placed 113,000 children who were adjudicated as delinquent in residential facilities.

Any of these options may at times be appropriate depending on the needs of the child, however, only intensive treatment family programs provide the child with needed services in a family environment in a cost-effective way. For example, the ITF program costs \$100 a day, compared to \$250 a day for residential care and \$1,000 a day for in-patient programs.

While ITF programs are the least costly, the advantages of such programs also must be considered against the disadvantages of the other options. For example, the benefits of the ITF program include: individualized treatment, a family setting which provides structure and guidance, community-based education, and the involvement of the child's natural family in most cases. On the other hand, while secured facilities offer a child structure and seeks to protect the child, these facilities do not offer treatment (i.e., psychiatric, psychological, behavioral and educational). The result is a high rate of recidivism among children placed in these facilities.

#### PLANS FOR EXPANSION

As the demand for community-based treatment grows, KidsPeace understands that it must expand its network of Intensive Treatment Family Programs nationally. While national expansion must occur over the period of several years, KidsPeace has put in place a plan to begin expansion immediately by putting in place six new ITF programs by the end of 1995 at a cost of \$140,000 per program. Once these programs are established, they become self-sustaining in six months. These new programs will be established in: Alabama, Georgia, New Jersey, New York, Ohio and West Virginia.

As the Office of Juvenile Justice and Delinquency Prevention seeks to achieve its mission to prevent at-risk children from entering the juvenile justice system and to reduce the recidivism rate of children already in the system, KidsPeace believes that the Office of Juvenile Justice and Delinquency Prevention would benefit from expansion of the Intensive Treatment Family Program. Specifically, expansion of the program would provide juvenile justice agencies another option for out-of-home placement. In addition, the ITF will provide kids in crisis with treatment to ensure that the conditions that make out-home-placement necessary are corrected so that the rate of recidivism is reduced. Finally, the ITF program allows the child to remain in close proximity to his/her home where he/she can continue to communicate with his/her natural family and where juvenile justice officers can better monitor the child's progress.

KidsPeace is proud of the successful record we have established in helping kids in crisis. We are equally proud of the success of our ITF Program. However, we see on a daily basis the need to expand our services to help additional children.

As such, KidsPeace requests the support of this Subcommittee through the auspices of the Office of Juvenile Justice and Delinquency Prevention the sum of \$840,000 in Fiscal Year 1995 to facilitate the expansion of the Intensive Treatment Family Program.

Thank you for your consideration of this request and for providing me with this opportunity to submit a statement to your Subcommittee.

**STATEMENT OF DAVE COWENS, EXECUTIVE DIRECTOR, SPORTS  
MUSEUM OF NEW ENGLAND**

Mr. Chairman, thank you for the opportunity to submit this statement for the hearing record. I am Dave Cowens, Chairman of the Board of Trustees of the Sports Museum of New England. I would like to bring you up-to-date on an important program at the Sports Museum developed to assist "at risk" youth in the Boston/Cambridge area.

Two years ago, this subcommittee provided important direction to the Office of Juvenile Justice and Delinquency Prevention (OJJDP) to review our initial proposal to establish the Athlete Student Achievement Pact (ASAP) and provide funding if warranted. We worked closely with OJJDP to adapt our proposal to meet their priorities as well as our own and, as a result, funding was provided and the ASAP program has been up and running successfully for almost five months.

The goal of the ASAP program is to reduce gang involvement, drug use, delinquency and drop-out rates among nine to sixteen year old high-risk youth. Some of the components of the ASAP program include the introduction of positive role models from the sports world and the community, family involvement in ASAP activities, monitoring school attendance rates of ASAP participants, and teaching ASAP participants to disseminate what they learn to others in their community and friends. I think you will agree that the mission of this program is very much in line with the stated priorities of the Congress and the Administration in the areas of juvenile delinquency prevention and reduced drug use among teens.

ASAP was born from a wish of the Directors of the Sports Museum to use the Museum as a base from which to branch out into the community using sports related themes to bring a positive messages to kids in the area. For the past six years, the Museum has sponsored outreach and education activities designed to bring together role models from the sports world with kids who desperately needed someone to give them a hopeful message about their future. Some of the athletes and coaches who have participated in our programs include Larry Bird, M.L. Carr, Bobby Orr, John Hannah and Chris Ford. Our partners in these initiatives range from the NBA's Stay in School Program to work with the United States Tennis Association and others.

Mr. Chairman, the key to ASAP's early success was the close involvement of community leaders in its development. We solicited input from Boston and Cambridge school administrators, local school principals, judges, policemen, teachers, social workers and countless others as we tried to design a program that would effectively meet the needs of "at risk" youth in our area.

ASAP, as written and approved by OJJDP, has a Development and an Implementation Phase. It requires a two year commitment from the "at-risk" students who participate in the program.

Currently, we are at the beginning of the Implementation Phase. Forty-five kids actively participate in ASAP -- 20 fifth and sixth graders from the Harrington School in Cambridge and 25 from the Lewis School in Roxbury. All our kids live in high crime areas. In fact, Roxbury is the highest crime district in Boston.

Each child works closely with a mentor and each mentor works with four or five kids. There are ten mentors and most are student-athletes from local colleges. Two are former professional basketball players. Two are Boston Youth Officers. Our mentors were recruited for us by Cambridge Community Services, an agency that specializes in mentor programs. They provided the ASAP mentors with a rigorous training program -- a five week course where they learned about adolescent development, cultural differences and communication skills.

The whole ASAP group, kids and mentors, meet at The Sports Museum's Herter Park site one afternoon a week in a classroom set aside for their exclusive use. There kids are taught

the values we commonly associate with sports: teamwork, perseverance, decision-making and conflict resolution.

In addition, mentors meet one-to-one with their kids one period a week in the child's school. They discuss schoolwork or problems, or they work on their contract or "pact" -- a goal setting tool that we use in the ASAP program.

That the program is working well is evidenced by the number of field trips mentors and students take on their own time. They visit The Sports Museum. They go to Celtics games and practices. They roller skate and bowl. They go to Harvard and Northeastern basketball and hockey games. Every weekend some mentors and their students are off on self-initiated field trips.

We believe that parents are the most important people in children's lives and it is essential that they understand ASAP, support the program and reinforce its themes. We schedule Family Nights monthly, and students, parents and mentors come together in a relaxed setting to reinforce objectives of the program.

Another critical component of the program is the Advisory Board which provides guidance to the project staff, makes program recommendations and disseminates information about the program to the Greater Boston community and beyond. The Board meets three times during the school year; two meetings have been held thus far, and the third is scheduled for June 13, 1994.

People in the community were invited to serve on the Board because they bring resources to the program and their unique perspectives to the staff. For example:

- M. L. Carr is the Community relations Director for the Boston Celtics and a spokesman on behalf of youth issues. He was the keynote speaker at the ASAP kick-off assembly.
- Natalie Christian is the Community Affairs Manager/Executive Producer of Public Affairs at Channel 56. Her job requires extensive interaction with the community. As a result, she is able to observe first hand issues of concern and provide feedback. Ms. Christian is also the Boston Director of the Gannett Foundation and in that role makes decisions on how their foundation money is spent.
- George Noonan, Aide to Boston's Police Commissioner, is the department's Coordinator of Youth Services. He assigned two of his youth officers to ASAP where they work as mentors to kids.
- Keith Motley is Dean of African-American students at Northeastern University. An inspirational speaker, he addressed the student body at an assembly held at one of the ASAP schools.

In all, twenty-six people serve on the Advisory Board, including the Cambridge Police Commissioner, Perry Anderson; former Patriot John Hannah; former Bruin, Gord Kluzak; Roxbury District Court Judge Paul McGill; Cambridge District Court Judge Severin Singleton; Superior Court Judge and former Celtic, Mal Graham; Lewis Middle School Principal, Brenda Jones; Harrington School Principal, Jose Figueiredo; Cambridge Assistant Superintendent of Schools, Patrick Murphy; Boston Deputy Superintendent of Schools, Joseph Bage; and the Community Relations Directors for the Boston Red Sox and New England Patriots.

Perhaps the best indication of the program's effectiveness is the overwhelmingly positive community reaction we have received. In fact, we were recently contacted by a judge in Malden, MA, to ask if we could bring ASAP to his district. We have received letters of support from former Mayor Flynn, the superintendent of Boston's public schools, and numerous other

community leaders. What they all recognize is that this is the sort of program that addresses the problems of juvenile crime, drug use, and gang involvement in a preventive manner. We are teaching kids that there are more choices than they thought existed. We are introducing them to athletes and others that found the way off the streets and then went back to help those that were still there. We are teaching kids to become leaders themselves and to bring the positive messages and hope that they learn from mentors, role models, and friends, back to their neighborhoods and homes. That is what the Athlete Student Achievement Pact is all about: teaching "at risk" youth that there are choices -- not just dead ends.

This tremendous commitment to the program by its directors and the community will eventually enable it to stand on its own without federal assistance. That time has not yet come, though, which is why we need your help to keep the program going. We are requesting \$1,200,000 for fiscal year 1995 as a continuation grant for the ASAP program. This increase in funding will allow us to expand the program from two to six school districts and increase participation from the current level of 45 kids to over 230. This initiative has tremendous support and tremendous potential. We need your support to take it to the next level.

Thank you for your allowing me to submit this statement.

#### STATEMENT OF MARGOT STERN STROM, EXECUTIVE DIRECTOR, FACING HISTORY AND OURSELVES

Mr. Chairman, and members of the subcommittee, thank you for including this statement on behalf of Facing History and Ourselves (FHAO) in the FY 1995 outside witness hearing record. I would like to take this opportunity to explain the important work that is being undertaken by the Facing History program, and to request that your subcommittee include \$2 million in support of expanding the program's reach to cities across the country.

Facing History and Ourselves is a Boston-based national educational and teacher training organization whose mission is to engage adolescent students of diverse backgrounds in an examination of racism, prejudice, and anti-semitism in order to promote the development of a more humane and informed citizenry. With regional offices in New York, Chicago, and Memphis, and programs instituted in a number of major cities, including Los Angeles and Baltimore, Facing History has attempted to address these issues in some of the most troubled areas of the country. By studying the historical development and lessons of the Holocaust, the Civil Rights movement, and other examples of genocide and community violence, students make the essential connection between history and the moral choices they confront in their own lives. Students learn the importance of civility, courage and altruism. The program encourages students to reflect upon their own roles in American democracy by examining case studies of individuals and groups who have tried to make a difference.

The program is recognized as a quality, cost effective educational solution with national impact in the school reform movement. It has been evaluated and designated an "exemplary program" by the Department of Education, and recognized as worthy of a challenge endowment grant by the NEH. It is respected by superintendents, principals, teachers, and students alike. Known for bridge building, Facing History has built its reputation over the years by bringing violence and other issues of import to our children to the forefront; its annual conferences bring major speakers to address teachers on key issues. Its events bring Nobel Prize winners to meet with students to discuss issues of hatred and violence. Major foundations, including Ford and Carnegie, have helped to develop the Facing History resources that are being used nationally.

Through these programs, adolescents learn to value and respect differences and to understand the avenues of participation available to them in their neighborhoods and their cities. This is particularly important given the widespread incidence of violence in our schools and our communities. Violence has become an integral part of the everyday experience of our youth. In pending legislation, Congress has recognized that "almost

3,000,000 crimes occur on or near school campuses every year, 16,000 per school day or one every six seconds." Further, the National Center for Education Statistics reports that more than 100,000 students bring guns to school each day and 160,000 students each day do not attend school because of fear of harm or intimidation, while over 2,000 students are physically attacked each hour.

More and more, violence, hatred, and intolerance seem to be the response to increasing diversity. A series of city strategic planning reports initiated by RAND in major urban centers conclude that growing diversity could point toward increased racial isolation, destabilization, divisive political conflicts, escalating crime and, ultimately, shrinking economic opportunity. These characteristics are exacerbated by the poor economic condition experienced by urban residents. Since the 1965 riot in the Watts section of Los Angeles, governmental remedies for declining urban areas and their residents which address one symptom or another have been developed and implemented again and again -- but clearly have had little significant impact: In poor urban communities, the number of young men who have completely stopped seeking work has jumped dramatically as the number of jobs available for which they qualify has consistently decreased; criminal offenses and the incidence of drug abuse has increased; and the proportion of African-American children living in single-parent homes exploded from 10 percent in 1960 to more than 54 percent in 1989.

The coalescence of these statistics show a society in decline. Without the social impetus to teach moral and ethical values and behavior, America's children are becoming increasingly desensitized to crime, and indoctrinated into a lifestyle of bigotry, hatred and intolerance. These qualities at best encourage increasing racial isolation and anti-social behavior, and at worst, result in the escalating incidence of crimes committed by juveniles. Further, in allowing our children to accept these behaviors, we also ensure increasing criminal behavior at all ages, a decreasing economic base, and the eventual death of America's cities. We must begin with our children to change these trends. Our experience is proof that teachers, when given the right resources and technical support, can learn to teach about these issues in a way that changes students attitudes and behaviors.

Today's students are tomorrow's citizens and work force. As we work to create new jobs and improve the economy, we need to recognize that economic hard times have been accompanied by the rise of hatred, the appeal of simple answers and intolerance. Our solutions must not be one-dimensional. This is particularly true for America's most troubled and declining urban areas. Schools can play a positive role in countering the forces of intolerance.

For 18 years, Facing History has offered its unique approach to help adolescents confront the complexities of history and ethical decision making. Facing History programs are now being taught to more than 450,000 students annually in public, private, and parochial schools across the U.S. and Canada. Over 30,000 educators from across the country, Canada, and overseas have attended Facing History workshops or conferences held throughout the U.S.

Facing History was created because of the need for resources that would connect complex history to students' lives. A forum was needed for students to discuss issues that so severely impact our society, including racism, class, bigotry, anti-semitism, and individual responsibility. For example, while other programs focus on the Holocaust itself as an historical even, Facing History examines a case study of the steps that led to the decline of democracy, providing a framework for understanding the complexities of such an event. Facing History also employs innovative features which foster student engagement and response. Examining, analyzing, and interpreting original discussion groups, student/parent classes, student journals, videotaping of classrooms, student art and drama projects, resource speakers in classrooms: all of these activities make the history come alive, while encouraging students to interpret its relevance for today.

Facing History's programs are effective because they include the teacher as learner. While teachers are often isolated from one another, FHAO institutes, workshops and follow-up activities focus on bringing teachers together from a variety of settings to share their experiences with the program. Facing History provides a model for linking research to the classroom teacher.

For example, a Cambridge teacher who came to Facing History wanting to address these important issues in her class said, "At my school, half of my kids were from the projects and were black and the other half were middle class white kids, and they were now coming together, so we were trying to find ways for kids to be able to talk about very complex issues -- to talk about racism, to talk about participation -- when their lives were so different." This teacher is not alone in struggling with this issue. Hundreds of teachers in the Facing History network have identified the same critical need. It is a fact that has profound implications not only for all teachers, but for our society as well.

The Facing History programs have proven to be successful at addressing these issues. In a letter to Facing History and Ourselves, Dan Isaacs, Assistant Superintendent of the Los Angeles Unified District wrote, "Without the support of Facing History, we would never have been able to give our teachers such an opportunity where they could discuss, study, and learn both content and strategy for approaching issues of racism and bigotry. Since one of our goals is ethnic and racial understanding and appreciation, Facing History offers an important means to achieving that end. And in a city whose population has become increasingly diverse and complex, the successful accomplishment of that goal is essential."

I strongly believe that the content of Facing History's programs are key to reducing violence in our communities. In the Senate-passed version of the pending Omnibus Crime Bill, language was included authorizing national leadership initiatives in our schools aimed at violence prevention through training and technical assistance. This is precisely the method being undertaken by Facing History's programs. Although this language has not been finalized in conference, it is important to note that such initiatives have been identified as essential in the effort to prevent violence before it occurs.

However, while Facing History's programs have been implemented in hundreds of school districts across the country, we as an organization have reached a critical turning point. In order to continue to expand our reach to all of America's needy communities, we must significantly increase our resources and our ability to provide our program to more teachers as a supplement to the activities being undertaken at the local education agency level. To begin this process, we are working to extend our programs by conducting national institutes for underserved teachers. We hope to replicate on a broader scale our successful model: the type of school-based, professional development efforts now recommended by educational reformers.

By marshalling existing resources and focusing new efforts on the creation of educational interventions, Facing History can help teachers across the country provide educational curriculum which fosters mutual respect, partnership, tolerance and civic responsibility. Such widespread adoption of anti-violence curriculum will make a remarkable reduction in the crime rate for both the long- and short-term. However, we cannot accomplish these far-reaching goals without assistance.

The Federal government has a vested interest in encouraging such programs as they can greatly improve the urban environment and significantly reduce the expenditures relating to law enforcement, rehabilitation and imprisonment, as well as other societal costs. Already, Members of Congress have begun to recognize that greater efforts are needed for counseling and training for teachers to avert juvenile violence in schools. However, local educational agencies and cities are financially unable to combat this increasing violence.

Mr. Chairman, because Facing History's programs can begin to fill this gap for our cities, our schools and our children, I respectfully request this subcommittee to include \$2

million in support of further expansion of this program and continued materials development activities. I would hope that you and the other members of this subcommittee would recognize the value of Facing History and Ourselves' programs to the juvenile justice system and provide support for our efforts in your FY 1995 spending bill.

Thank you for your consideration.

# STATEMENT OF MICHAEL E. SAUCIER, CHAIR, COALITION FOR JUVENILE JUSTICE

## INTRODUCTION

Mr. Chairman, my name is Michael E. Saucier and I am National Chair of the Coalition for Juvenile Justice (CJJ). I am from Portland, Maine where I work as a lawyer. My experience in juvenile justice includes work both as a prosecutor and defense attorney. I am Chair of the Maine Juvenile Justice Advisory Group, having originally been appointed as a member by the Governor in 1985.

The Coalition for Juvenile Justice (formerly the National Coalition of State Juvenile Justice Advisory Groups) is the only national organization that focuses directly on the entire juvenile justice system. As citizen volunteers appointed by our governors, we are the local link in unique, dual partnerships -- citizen/government and federal/state/local partnerships. We work toward improvements in the juvenile justice system and focus efforts on delinquency prevention where it makes the greatest difference -- in schools, with families, by police officers and through judges and other juvenile court workers. The Coalition is comprised of members of the State Advisory Groups (SAGs) of the 56 states and territories which participate in the Juvenile Justice and Delinquency Prevention Act (JJDP).

The JJDP Act embodies the only federal program which directly addresses the entire juvenile justice system and the needs of those children in or at risk of being caught up in the system. Its mandates focus on improvement of the system. The Act is also the only vehicle through which the federal government addresses the problems of delinquent and at-risk youth on a planned, coordinated local basis. Programs funded through the Act have proven their effectiveness in bringing about much needed change in the juvenile justice system and in preventing delinquent behavior and combating recidivism. The JJDP Act is reform legislation. While progress in achieving the goals of reform has been made, much is left to be done. We ask you to give us the means to do what still needs to be done. We urge you to increase the funding for the Formula Grants Programs under Title II of the JJDP Act to \$150 million, the total amount authorized for funding Parts A, B, and C of Title II.

## MEETING THE MANDATES

When the Juvenile Justice and Delinquency Prevention Act became law twenty years ago, its focus was on both system reform and delinquency prevention. In requiring that the states meet certain system reform goals (mandates) of the Act, Congress recognized that, while protecting our communities, system reform was essential if justice for juveniles were to be a reality. As mandates of the Act, Congress requires that:

- \* status offenders be removed from secure facilities (DSO)
- \* juveniles be separated from adults in secure facilities, jails, and lock-ups (Sight and Sound Separation)
- \* juveniles be removed from jails, lock-ups and other adult facilities (Jail Removal)
- \* overrepresentation of minority children in the juvenile justice system be addressed and reduced (Overrepresentation)

With funding under the JJDP Act, the states have had notable success in achieving compliance with the DSO, Sight and Sound Separation and Jail Removal mandates. There are several states which still need funding to achieve full compliance with these three mandates. Others who are presently in compliance still must spend appreciable percentages of their

formula grants funds to remain in compliance. Colorado, for example, while now in compliance with Jail Removal, has been in and out of compliance over the years. In Colorado's Three Year Plan for FY 94-96, it anticipates spending \$140,000 to continue work in maintaining compliance with jail removal as well as an additional \$100,000 for monitoring compliance with all the mandates of the Act. These amounts represent almost one-third of the total formula grants funds the state will receive --- money that must be spent only to deal with mandate compliance matters!

The states which are not in full compliance must spend their formula grant allocation in achieving compliance. They have nothing left to spend on delinquency prevention. We need increased funding of the Title II formula grants programs to allow us to continue to press for attainment of the DSO, Sight and Sound Separation and Jail Removal. Without federal leadership and funding, momentum will be lost. If there were not sufficient federal funds to allow the states to monitor compliance as well as to provide funds to local communities to help them come into, and remain in, compliance, the progress that has been made will most certainly be eroded.

Most states have only begun to wrestle with the enormity of the task of assessing and addressing the fourth mandate-- the overrepresentation of children of color in the juvenile justice system. Many have only recently completed the task of assessing the nature and extent of the problem of overrepresentation through data collection. Some states that have gone through this initial step of data collection have found that the data was difficult to collate because of flaws and gaps in overall juvenile justice data collection in the states. Money will have to be spent just to rectify the problems in data collection, and more will be needed to enable the states and territories to come into compliance with the Overrepresentation mandate. Even those who are in complete compliance with the other mandates of the Act will have to use a substantial portion of their formula grant dollars to proceed with the task of developing methods and programs to reduce and eliminate the problem of overrepresentation.

#### BEYOND THE MANDATES

In addition to requiring compliance with the four mandates of the Act, Congress, in the 1992 reauthorization of the Act, has required the State Advisory Groups to review and address other important matters. It has asked that the SAGs look at such matters as gender-specific programs for girls, at delinquency prevention treatment services in rural areas, and at mental health services for juveniles. The effort Congress requires of SAGs in these emerging issues in juvenile justice is to analyze problems, create consensus in the States regarding solutions and fashion and fund innovative techniques to achieve results. The effort Congress demands requires a fiscal commitment. For example, we know that there are very few programs and services for girls in the juvenile justice system. Virginia has analyzed this problem and found gender-specific services to be lacking. Only one of its four state-operated group homes accommodates females, and that has a maximum capacity of four. It has few community programs specifically designed to meet the needs of female offenders in a state where the number of arrests of females for serious offenses is increasing. Few states have any funds available to develop gender specific programs, or to provide programming to meet mental health needs or develop delinquency prevention services in rural areas. As Virginia has said in its FY 1994 Three Year Plan "[j]ustice is determined by geography on many levels." In Virginia, and most other states, there are few services and programs available to delinquent and at-risk youth in rural areas.

The policies of the JJDP Act speak strongly to the need for prevention, yet a substantial portion of the formula grants funds still go to mandate compliance efforts. Little is left for state-wide prevention initiatives. That few dollars are available to meet ever-increasing needs for prevention and intervention is apparent if we consider the total formula grant funds available to most states. Even with the increases in formula grant funds proposed in the Administration's FY 1995 budget, eighteen states would receive only \$600,000. Eleven more would receive amounts ranging from just a little more than \$600,000 to less than a \$1 million. Realistically speaking, this is very little money to address a broad range of significant issues.

Congress recognizes that prevention is more cost effective than incarceration. Members of Congress have noted that while the United States has a higher incarceration rate than any country in the world, yet that high rate has produced no appreciable reduction in crime. Equally acknowledged is the fact that prevention and intervention programs and services do keep children out of trouble and reduce recidivism rates for those already in trouble. There are many such programs funded with formula grants dollars --- the Juvenile Intervention Project in Colorado, a training program for sheriff's officers, which resulted in an immediate decrease in juvenile arrests and detentions; the Rites of Passage project in Iowa, providing tutoring, mentoring, crisis intervention, and individual and family counseling for middle school African-American males from high-risk situations, which has resulted in significant improvement in participants' academic performance and family lives, and Project HELP in North Carolina, a program concentrating on prevention whose at-risk participants have not gone on to become involved in the juvenile justice system.

We know that where the states and local governments have used formula grants to fund programs this money is most often used as "seed money," and the successful programs funded by the federal dollars are thereafter funded by state and local governments, often in cooperation with private agencies. The Project HELP program in North Carolina and the Girls Outreach Program in Virginia, both originally funded with federal dollars and now supported locally, are two examples. Another significant example is found in Michigan where the Regional Detention Support Services program, which provides non-secure holdover sites for juveniles in 64 Michigan counties which don't have a juvenile detention center, was originally funded through formula grants dollars and has been fully locally supported since 1989. We know that prevention and intervention work; we know which programs work best; we don't begin to have the money necessary to fund the programs needed.

#### COORDINATED, COMMUNITY BASED PREVENTION

Extensive research has identified many of the factors which contribute to juvenile crime. The factors repeatedly cited in such studies as the Office of Juvenile Justice and Delinquency Prevention's "Program of Research on the Causes and Correlates of Delinquency" are delinquent peer groups, poor school performance, high-crime neighborhoods, weak family attachments, lack of consistent discipline and behavioral monitoring, and physical or sexual abuse of children. As experts in the field of juvenile crime and delinquency prevention widely agree as to these risk factors, there is also wide consensus that the best approach to prevention and intervention is a comprehensive, coordinated, community-based approach --- the "three Cs approach." This approach was endorsed by the General Services Administration before the Senate Subcommittee on Governmental Affairs, when that subcommittee held a hearing on youth violence prevention. The GAO representative stated that "...preventing youth violence in the long term requires a comprehensive, coordinated ... approach." Yet, it was acknowledged that the biggest obstacle to developing such an approach at the local level "... can be the time and personnel commitment needed from local service providers that is necessary to build and sustain multi-agency cooperative efforts." That obstacle can be overcome and efforts sustained with increased funding of Title II programs and the Title V Prevention programs.

#### PART E - STATE CHALLENGE ACTIVITIES

Funds appropriated for Part E of Title II, State Challenge Activities, would act effectively to supplement delinquency prevention activities in a coordinated, effective way. This part reflects Congressional intent to stimulate funding to develop programs and services for youth in the juvenile justice system. The areas deemed critical by Congress include:

- \* Programs to provide basic health, mental health and appropriate educational services for youth in the juvenile justice system
- \* Right and access to counsel for juveniles in the system
- \* Community-based alternatives to incarceration

- \* Secure settings for placement of violent offenders
- \* Prohibition of gender bias in placement and treatment
- \* State ombudsman for children, youth and families
- \* Programs to remove, where appropriate, status offenders from the jurisdiction of the juvenile court to prevent placement in secure detention
- \* Alternatives to expulsion and suspension from school
- \* Aftercare programs for juveniles
- \* Coordination of program and fiscal policies for children who have emotional and behavioral problems and their families among the major child-serving systems and developing a statewide case review system

State challenge activities would allow extra funds to be granted to any state which receives formula grant funds when that state elects to participate in any of the challenge activities set out in this part. By funding Part E at the level set out in the Administration's original proposed budget, \$35 million dollars, you will provide for additional, community-based programs carefully crafted to help individual youth in the juvenile justice system. Furthermore, the SAGs in the participating states will be able to increase their funding of prevention and intervention programs and those funds will be channeled through a structure with long experience in supporting comprehensive and coordinated delinquency prevention and intervention programs. Unfortunately, the Department of Justice (DOJ) now proposes to eliminate \$30 million of the budgeted \$35 million funding for Part E. This attempt by DOJ to virtually eliminate funding of Part E is a disappointing step backwards, and it threatens to frustrate and undermine the intent of Congress to stimulate funding in emerging priority areas of juvenile justice.

#### TITLE V - LOCAL PREVENTION

Title V of the JJDP Act is one of Congress' most significant initiatives in delinquency prevention since the passage of the Act itself. In adopting Title V, Congress found that Federal incentives are needed to "assist States and local communities in mobilizing delinquency prevention policies and programs."

Title V provides for grants to local governments for "front end" prevention programs -- programs involving such things as recreation services, tutoring and remedial education and alcohol and substance abuse prevention. It provides sorely needed prevention funds to supplement the meager funds left for delinquency prevention in the states through the formula grant program of Part B, Title II. It involves community leaders in analyzing local problems and determining appropriate local approaches to prevention. It enhances the coordinated effort urged by the GAO by requiring that the grants be transmitted through the State Advisory Groups. The SAGs are the only entities that are required to produce, on the state level, a three-year plan assessing and addressing the needs of the juvenile justice system and delinquency prevention. The provision involving the SAGs in the Title V prevention activities allows for the much needed coordination of effort. It ensures that communities are ready and good programs will be funded, without wasteful duplication of effort, and that monies will help children and reduce crime.

The Department of Justice now proposes to reduce the Administration's original FY '95 appropriation request for Title V from \$30 million to \$25 million. Like the proposed reduction in Title II, Part E funding, this request is not in our nation's best interests. It would, again reduce funds available for the only truly focused, coordinated federally funded effort in delinquency prevention. We urge you to fund Title V at not less than \$30 million.

In conclusion, Mr. Chairman, I again urge you to fund Title II and Title V at the levels I have discussed. The JJDP Act has provided the foundation for funding comprehensive, coordinated, community-based, effective programs for children. It has provided the "seed money" for

developing programs which demonstrate success and are then allowed to continue that success when states and local communities and agencies step in to provide further funding. It has provided for coordination of effort rather than duplication of effort. It has allowed a truly effective federal/state/local partnership to develop. Please allow this partnership to flourish and grow. Generous funding of this Act will help the states and territories meet the goals, and burdens, Congress has placed on them. Most of all, while keeping our communities safe, it will help our children.

Thank you.

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STATEMENT OF GERALD M. MAY, ASSISTANT DIRECTOR, NATIONAL  
LEGISLATIVE COMMISSION, THE AMERICAN LEGION

Mr. Chairman and Members of the Subcommittee:

The American Legion is grateful for this opportunity to testify before the Committee. For several years in the recent past the Legion has written your committee in support of the Office of Juvenile Justice and Delinquency Prevention and solicited your continued support for their efforts, initiatives and needed resources. You have responded with reason, understanding and generosity. We again ask your forbearance for yet another year.

The challenges facing OJJDP are crucial and are becoming more acute as each year passes. Not because they have not been supported by all of us; but because the magnitude of lawlessness and viciousness of crime has multiplied.

Over the last three decades violent crime has increased by more than 500 percent. America leads the industrialized world in rates of murder, rape and violent crime. Nearly three out of every four convicted criminals are not incarcerated. Fewer than one in ten serious crimes results in imprisonment.

According to a recent Department of Justice report on nationwide crime, a murder occurs every 24 minutes, a forcible rape every six minutes, a robbery every 55 seconds, an aggravated assault every 33 seconds, and a burglary every 10 seconds.

The American Legion is seriously concerned about the recent high levels of violent crime committed by juveniles in this nation. While juveniles account for approximately 35 percent of our population, they account for better than 50 percent of serious crimes as reported by the FBI Uniform Crime Reports.

During one typical day in the lives of American children, the FBI reports indicate 2 children younger than age 5 are murdered, 248 children are arrested for drug abuse, and 427 children are arrested for alcohol abuse or drunk driving. In 1991 one out of every four Americans arrested was a teenager. In that year approximately 2.7 million American youths age 10 to 19 were arrested and a growing number are spending time in jail. The juvenile arrest rate for murder has doubled between 1978 and 1990. For the same period we have seen juvenile arrests for aggravated assault increase by two-thirds, the juvenile arrest rate for weapons law violations increase by 60 percent, and the juvenile arrest rate for rape increase by almost 40 percent.

I'm sure that myself and other witnesses could go on with more statistics to corroborate, if that is necessary, that crime, and juvenile involvement in lawlessness are out of control. So much so that it is beyond the power of many parents and guardians to stop the carnage.

For its part, The American Legion continues to try to mold the minds of young people, serve as role models for their energies, and challenge them educationally, physically and spiritually.

Since our beginning, The American Legion has actively voiced concerns related to the care, welfare, and education of our Nation's children and youth. As early as November 1919, we asked local Posts to aid the widows and children of our deceased comrades.

Throughout the decades that followed, The American Legion has become a strong advocate for children's rights and remains at the forefront of efforts in behalf of children. Our early years were devoted to progressive child care and protection programs. Through the efforts of The American Legion, the American Legion Auxiliary and the Sons of the American Legion, many states and communities have been urged to improve their Child Welfare provisions.

We have asked states to change from an institutional approach in handling children to that of keeping them at home with their families. This ultimately gave rise to a nationwide movement toward family care of dependent and neglected children, and led to the passage of Mother's Aid and Mother's Pension laws, and to the Aid to Dependent Children provisions of the Federal Social Security Act.

An early study, conducted by the Legion in several States, reviewed the laws regulating adoption within those states. Our efforts led, in many cases, to the introduction and passage of an adoption law protecting both the child and the adoptive parent.

As a result of other studies The American Legion urged state legislation to require doctors and hospitals to report suspected cases of child abuse. We advocate a national safety campaign each year for Halloween, and we actively lobby for the National Family Week proclamation each year.

A more substantive and lasting contribution is represented by our monetary support of our Legion-unique Temporary Financial Assistance program. This program has been in operation since 1925, and has provided over two and one half million dollars to needy veterans families whose children are in urgent need of financial support. Last year the TFA program aided 2,182 children with over \$398,000.00.

In 1992 our posts and units contributed more than \$37 million to help nearly 2.6 million children. The funds went to support Temporary Financial Assistance needs, the Child Welfare Foundation of the Legion and donations to other child serving agencies, both inside and outside The American Legion. In 1993 our posts and units contributed nearly \$31 million to help even more children than the previous year. The figures are not in yet for this year but I can say our support has not wavered even though we are experiencing "leaner" times and have had to find ways to make our dollars go further.

The American Legion has and will do everything possible to perpetuate 'A SQUARE DEAL FOR EVERY CHILD'. This remains our ultimate goal and the challenge for the years ahead. To attain this goal, The American Legion, in 1925, adopted the "Whole Child" plan which states: "every child should have a home, health, education, character and opportunity." Its foundation is based on three guiding principles. The first is to strengthen the family unit against the forces of today's complex society. It recognizes that the most normal environment for children is at home with their own parents. The second principle is to extend support to sound organizations and facilities that provide services for children and youth. Always acting in a supplementary capacity, rather than duplicating the efforts of existing agencies. And the third, is to maintain a well-rounded program that meets the physical, intellectual, emotional and spiritual needs of today's young people.

To date there exists no area of child welfare that has gone untouched by the collective hand of the American Legion. The American Legion membership has done its best to serve as role models for today's young people. But no matter how hard we try, no matter how much money we donate to programs, and no matter how much structure and inspiration we impart to young people, our words and our ways will not reach some.

Numerous government-supported institutions nationwide, specifically schools and housing developments, are experiencing increasing serious, violent acts of crime and criminal damage and spend in excess of \$500 million annually in restitution for acts of vandalism. The impact of violence and vandalism affects not only the morale of students, teachers, administrators, local government officials and parents, but it impedes educational advancement and fosters and perpetuates patterns of deviancy. Violence and vandalism in the nation's institutions result in enormous loss of educational and domestic resources and human potential, and contribute to the high rates of juvenile delinquency within the United States.

Most of us would agree, crime is a direct result of our current economic conditions, unemployment, a lack of conscience and a general moral decline. But in a vast majority of cases, the overriding factor is the lack of accountability, both by parents and youth. This overall failure to accept responsibility for their actions and be accountable for the results can be readily observed in the behavior of many of today's young people who end up being arrested, charged and sentenced for wanton criminal acts.

According to the Office of Juvenile Justice and Delinquency Prevention, the process necessary to reverse national trends in juvenile violence, juvenile victimization and family disintegration will require both a change in national priorities and an unprecedented commitment by public and private agencies, institutions, organizations and individuals.

Toward this end, the OJJDP developed a Comprehensive Strategy to address serious, violent and chronic delinquency. The strategy is based on ODDJP's continuing review and evaluation of data and focuses on promising approaches in the core institutions of our society.

The more formidable challenge is how to keep young people from ever falling into the criminal justice system in the first place. The bitter truth is that many parents, schools, churches and communities have side stepped their responsibilities and passed them off to government. But the government cannot do a parental and community job for them.

As time has passed the problem of juvenile involvement in crime has grown worse. We have a dilemma. Violent crime and juvenile involvement in it has caused a justifiable public outrage in American society. People are frustrated and bitter that government has failed in its responsibility to provide for the public security. For its part, the criminal element has become more sophisticated and has found ways to circumvent or simply assault preventive methods.

One solution is the Singaporean concept of corporal punishment. It is swift, decisive and very public. The American people want to see a responsive and decisive penalty exacted against those who prey on society. However, neither our traditional American justice system nor our value system are ready to accept either the dramatic increase in violence or an authoritarian brand of discipline.

The responsible middle ground for now is the Comprehensive Strategy of the Office of Juvenile Justice and Delinquency Prevention. The Legion believes the five key principles advocated by the Strategy for preventing and reducing at-risk behavior and serious or violent delinquency are justifiable. However, it requires commitment of both will power to institute it and resources to fund it. The FY 1995 OJJDP approach involves participation by parents and community leaders in a timely and positive way. The focus must be on the locality that is most affected by the juvenile crimes. Each community has some unique solutions to their juvenile crime problems. They should be encouraged to share their answers with one another. The OJJDP can facilitate this through community-based activities that provide services in secure environments. Above all, the family must participate. Individual traits such as discipline, structure, character, self-respect, responsibility, teamwork, healthy lifestyles and accountability must prevail.

Mr. Chairman, within the last month the Carnegie Corporation of New York released the results of a study which addressed meeting the needs of our youngest children. In that report they conclude that a supportive community, neighborhood, religious, ethnic, or political groups have been historically instrumental in fostering development of a healthy environment. However, in the last three decades the change in patterns of inter-relationships between children and their parents has been dramatically transformed. Mothers are home less, fathers spend less time with their children and young people are increasingly placed in the care and tutoring of child care centers, schools or city streets, all of which operate with inconsistent levels of supervision and management.

Findings of a recently completed Department of Defense effort, The 1993 Youth Attitude Tracking Study, summarized trends of youth interest in serving in the military forces of the United States. A disturbing finding by the study is that attrition among recruits has increased and is owed to lower quality, less committed recruits.

With study results like these, and many others that have not been mentioned here, is it any wonder we have increased juvenile problems? If we are to preserve the principles, attitudes, values and beliefs of our society, we must ensure older generations are replaced by adequately prepared younger generations. The Office of Juvenile Justice and Delinquency Prevention doesn't have all the answers but has a head start on seeking solutions. The FY 1994 appropriation to this office provided the necessary impetus to begin finding combinations of programs that hold promise. But the Office cannot do it all by themselves. They need the cooperation of parents, communities, organizations like The American Legion, and most of all, this Committee and the Congress.

The FY 1995 President's budget request will go a long way toward finding civilized remedies to America's juvenile justice problem. To appropriate less will mean we can expect fewer solutions to this growing crisis. The American Legion urges you to approve the President's budget for this crucial office that holds the keys to the door of America's future.

#### DEPARTMENT OF STATE

#### STATEMENT OF JOHN B. ANDERSON, PRESIDENT, WORLD FEDERALIST ASSOCIATION

The World Federalist Association adds its voice to the call for full and on-schedule payment of U.S. dues to the United Nations. Recent polls show a high level of public support for the United Nations. On April 2, 1994, *The New York Times* reported its finding that Americans feel, by a 59 to 31 percent majority, that the United States "has a responsibility to contribute military troops to enforce peace plans in trouble spots around the world when it is asked by the United Nations." That same week, a University of Maryland Program on International Policy Attitudes poll revealed that, by a 61%-35% margin, Americans support U.N. peacekeeping funded through the defense budget.

While the U.N. has drawn criticism for problems in Bosnia and Somalia, little heed has been paid to its great successes: in Namibia, in El Salvador, in Cambodia, and other places. Although recent attention has focussed on peacekeeping, we should note that the U.N. is the leading organization responsible for assisting refugees, protecting the global environment, immunizing children against deadly diseases, and other crucial social questions.

What is the price we pay for such services? Douglas Bennet describes "... a price per capita for us, for everything from blue helmets for peacekeepers to polio vaccines for babies, of less than \$7 a year." Compared to the \$264 billion U.S. military budget, this is a small price for international actions which prevent the disruption of economic activities, the mass migration of refugees, the proliferation of weapons, and other conflicts which affect U.S. interests.

The end of the Cold War has given us an opportunity to reshape the abilities of the United Nations. Yet this moment could disappear quickly. The U.N. is currently crippled by underfunding and is unable to effectively carry out the responsibilities which the international community has thrust upon it.

The U.S. has the ability to change this, to lead in forging a competent U.N., capable of maintaining international peace and security. The State Department Authorization bill moved us in this direction by authorizing payment of our treaty obligations to the U.N. However, the bill's provisions to withhold certain percentages of our dues are a dangerous, counterproductive move. Not meeting our own treaty obligations undermines our credibility in objecting to actions of Iraq or Libya which violate U.N. authority or international treaty law.

The U.S. should take a strong, positive stance, paying up our current dues and arrearages. Without our leadership, the U.N. cannot fulfill the ideals of its Charter. Without an effective U.N., we will bear the consequences of international chaos in growing isolation.

#### RELATED AGENCIES

#### STATEMENT OF THE AMERICAN ASSOCIATION OF NURSERYMEN

Mr. Chairman, and Members of the Subcommittee, the American Association of Nurserymen (AAN) welcomes this opportunity to present the nursery and landscape industry's views regarding the need for FY95 funding for the Small Business Administration's tree planting initiative, known as the National Small Business Tree Planting Program.

#### BACKGROUND

Founded in 1875, the American Association of Nurserymen (AAN) is the national trade organization of the nursery industry. We directly represent 2,300 nursery growers, landscape professionals, garden center retailers, and horticultural distributors. AAN represents an additional 16,000 small businesses and family farms through the membership of the state and regional nursery/landscape associations.

This testimony also represents the views of the Associated Landscape Contractors of America (ALCA) and its 1,100 landscape contractor members, as well as the Garden Centers of America, the National Landscape Association, and the Wholesale Nursery Growers of America.

#### ECONOMIC IMPACT OF NURSERY AND LANDSCAPE INDUSTRY

According to USDA's Economic Research Service (ERS), the nursery and greenhouse industry continues to outpace other agricultural sectors. Nursery and greenhouse crops totaled \$9.0 billion in grower cash receipts in 1993 -- representing nearly 11 percent of the total cash receipts for all U.S. farm crops.

Nursery and greenhouse crops in 1991 ranked 6th in total grower cash receipts among all farm commodities -- ahead of such major crops as wheat, cotton, tobacco, peanuts, sugar or rice. And, unlike so many other agricultural segments, the nursery industry does not receive -- and does not want -- any federal subsidies or similar support. Nursery and greenhouse crop production ranks in the top five agricultural commodities in 23 states and in the top 10 in 42 states -- including all of the states represented by the Members of this Subcommittee -- West Virginia, Iowa, Kentucky, Michigan, Virginia, Colorado, North Carolina and Arizona. ERS expects retail consumer expenditures for nursery and greenhouse products to total an estimated \$40.4 billion in 1994.

NATIONAL SMALL BUSINESS TREE PLANTING PROGRAM IS A SUCCESS

Thanks to the leadership of Representative Neal Smith, the National Small Business Tree Planting Program was enacted in 1990. It authorized the U.S. Small Business Administration (SBA) to provide grants to state and local governments for contracting with small businesses to plant trees on land owned or controlled by those governments. We genuinely appreciate the FY91-FY94 appropriations approved by Congress, and the well-founded faith that this Committee has had in the National Small Business Tree Planting Program.

In its short existence, the National Small Business Tree Planting Program has proven to be an unbridled success. We believe this is due in no small part to the program's overall implementation by SBA. The nursery and landscape industry truly appreciates the cooperative, effective and efficient manner by which SBA has administered the program from its very inception.

Continued funding for the National Small Business Tree Planting Program is an investment -- an effective investment in the small businesses of this country, and a significant investment in America's natural environment. Rarely is there a federal program which generates such a high ratio of contributed dollars to federal dollars as does this program: \$1.47 in contributed funds for each \$1.00 in federal appropriations. Since its enactment in 1990, Congress has appropriated \$59.8 million for this program. Yet, what is most significant is that contributed funds have added another \$88 million for a program total of \$147.8 million.

Unfortunately, the Bush Administration apparently believed that a tree planting program was not an ideal fit in the overall thrust of SBA's program menu. However, as we stated in testimony before this Subcommittee last year, encouraging and spurring investment in this nation's legion of small businesses is an integral part of SBA's mission. Small businesses are the backbone of this nation's economy. We believe strongly that the National Small Business Tree Planting Program continues to be an appropriate and solid program for SBA to administer.

We were pleased that the Clinton Administration's first proposed budget (FY94) contained funding for the National Small Business Tree Planting Program. In fact, Congress saw the value in this program and appropriated \$18 million for FY94. You can perhaps understand, then, our deep disappointment that despite being the first Administration to propose funding for the SBA tree planting initiative, the Clinton Administration has eliminated funding in its proposed FY95 budget. This is very disconcerting especially for an Administration which has often publicly stated its support for small business initiatives, public-private partnerships, and improvements to the environment.

THE NATIONAL SMALL BUSINESS TREE PLANTING PROGRAM IS A PUBLIC-PRIVATE PARTNERSHIP MODEL OF COOPERATION

As noted earlier, we attribute much of the program's success to the simple and straightforward manner by which SBA has consistently administered it. It is a program that works well because SBA has seen to it that this program not become bureaucratized. SBA has worked well with the state foresters who have generally been charged with implementing this program at the state level.

It is also important to note that since the National Small Business Tree Planting Program was enacted, an unanticipated dividend has been that the level of cooperation among the state foresters and the nursery/landscape industry has increased substantially and, perhaps, has never been stronger. We view the National Small Business Tree Planting Program as a genuine model of cooperation among the federal, state and local levels

of government and private industry. It is one of those rare "win -- win" programs of which Congress and the private sector can be proud -- and the Administration should be.

#### SUPPORT FOR FY95 FUNDING

During the recent economic downturn, the National Small Business Tree Planting Program filled a vital role in municipal and county tree planting budgets which otherwise may have been dramatically cutback or even eliminated -- just when more and more officials and citizens were beginning to recognize that mature trees are an important tool in improving this nation's environment.

Trees provide positive environmental benefits as they clean the air by removing carbon dioxide, and reduce energy consumption by providing cooling shade. Trees reduce soil erosion, and enhance wildlife habitat. It is important to keep in mind that unlike streets, sidewalks and bridges, trees and landscaping are the only components of urban infrastructure that increase in value over time. As a result of the SBA program, 831,920 urban trees and 15,120,336 seedlings have been planted by small businesses on government lands.

The SBA program has helped small businesses in the nursery and landscape industry retain employees who might otherwise have been laid-off during the economic downturn of the early 90's. In effect, the SBA program has performed double-duty by impacting upon both unskilled and professional workers -- the full spectrum of labor. SBA estimates that 13,240 businesses have participated in 5,688 SBA tree planting projects since FY91.

We strongly urge this Subcommittee to maintain the current funding for the SBA tree planting initiative by appropriating \$18 million in FY95 for the program.

Mr. Chairman, we are gratified that this Committee and the Congress recognize that the National Small Business Tree Planting Program is both an economical and environmentally sound investment in our nation's small businesses and our natural environment.

Mr. Chairman, on behalf of the nursery and landscape industry, we thank you for the opportunity to present this testimony. We look forward to continuing to work with you and the Members of this Subcommittee to ensure the continued funding of the successful SBA-National Small Business Tree Planting Program.

#### STATEMENT OF DORIS M. JOHNSON, PRESIDENT, VANCOUVER BOLT AND SUPPLY INC.

Mr. Chairman and Members of the Subcommittee, my name is Doris Johnson. I am President of Vancouver Bolt and Supply of Vancouver, Washington, and I have organized and lead an informal coalition that seeks to support the President's legislative proposals for prepayment without penalty of SBA's 503 loans. The total number of Section 503 loans involves 200,000 employees. As you know, changing the 503 prepayment penalty situation involves a two step process: first, passage of authorizing legislation and second, passage of an appropriations measure that implements the authorization.

#### Existing Legislation and Background

Current law does not permit prepayment of Section 503 loans without a prepayment penalty. A change in the statute is needed to permit the prepayment of section 503 loans. I understand that as part of the President's legislative proposals for the SBA reauthorization

bill recently or soon to be submitted to the Congress that provisions have been included that would permit prepayment without penalty.

Many borrowers who obtained Section 503 loans at higher interest rates some years ago would now like to pay off their loans, but are prevented from doing so due to the exorbitant cost of the associated prepayment penalty. Due to the provisions of the Credit Reform Act of 1990, which was a component of the Budget Enforcement Act of 1990, any reduction in the revenues that the Federal Government is owed due to a change in legislation or discretionary administrative decision must be offset by a like amount of increased income from other sources. This is called the Pay-As-You-Go, or Pay-Go, concept in credit reform jargon.

I conducted a survey of Section 503 borrowers, trying to determine how many regard legislation waiving or altering the prepayment provisions as critical. Of the approximate 2,000 borrowers we contacted, I received 407 responses on short notice indicating a strong desire to change the legislation. Hundreds of other borrowers have contacted their elected Representatives and Senators on this issue in the past two years.

A copy of the survey results is attached to this statement. Responses from over 40 states were received: this is not a regional or parochial issue.

#### Fiscal Year 1995 Budget Request for SBA

I have here copies of letters to the Subcommittee requesting your support in the FY 1995 Appropriations Bill, to provide \$30 million, the level of the President's Budget Request, to offset costs associated with Section 503 loan prepayments. I request that a list of the authors of these letters, who are all borrowers of SBA Section 503 loans who wish to prepay, be made part of the hearing record.

Most of these letters speak of a critical need to obtain relief from the high interest rate of the 503 loan or the cost of the prepayment penalty. From the survey we learned that 31 businesses are on the brink of bankruptcy, involving the potential loss of 650 jobs. We are dealing with small businesses which cannot sustain much variability in their "loss" column without terminating their livelihood.

The issue is survival for many of us. The potential loss of jobs, the negative effect on our economy, and the tremendous loss in private capital and investment can be avoided with support of your Committee's action.

We realize that this is a particularly difficult year in budgeting terms and that you face a slate of hard decisions in your upcoming deliberations. We also realize that the President's Budget proposes reductions or elimination of programs that have enjoyed strong Congressional support in the past. However, the 503 prepayment penalty issue is crucially important to a widespread number of existing businesses, and we earnestly ask that you place this matter as a high priority among the issues you must address this year.

Others can speak to their particular circumstances and the personal nature of this issue. I hope this overview has provided the Committee some idea of the public support, and the public policy rationale, for carrying out the President's proposal to change the existing situation with regard to prepayment of SBA's Section 503 loans.

Thank you for allowing me the opportunity to present this statement for the Committee's consideration of Fiscal Year 1995 funding issues.

## HIGHLIGHTS OF SBA-503 BORROWER SURVEY

During December 1993, our SBA-503 Coalition questioned over 2,000 SBA-503 borrowers. (This is everyone for whom we had a street address and we believe represents more than half of all outstanding SBA-503 loans in the nation.) 407 of these, or about 20 %, indicated that they would and could refinance their loans if the prepayment penalties were eliminated or substantially mitigated. This high response to an in depth questionnaire indicates that it will be fair to apply the 20% figure to all outstanding SBA-503 loans.

The 407 positive respondents to the December 1993 questionnaire have 18,481 employees and can add 2,519 more if they are able to refinance their SBA-503 debt without prepayment penalties.

31 borrowers indicated that they face bankruptcy if they are unable to reduce their interest costs. Bankruptcy will impact the government guarantees and jeopardize 670 jobs. The total of unpaid loan balances of this group was \$ 6,854,843.

The highest interest rate reported was 15.262 %.  
The lowest interest rate reported was 7.328 %.  
Over 86 % (351 borrowers) carry interest rates of ten percent (10%) or higher.

The average unpaid principal balance was \$ 174,703.  
The highest was \$ 464,081 and lowest was \$ 8,822.

Loan Origination by Year

Year	Number of Borrowers	Percent of borrowers
1981	7	1.7
1982	29	7.1
1983	70	17.2
1984	125	30.7
1985	114	28.0
1986	40	9.9
* 1987	22	5.4
Total	407	100.0

\* (503 program replaced by 504 program)  
Please note that 58.7 % of the loans originated in the two years 1984 and 1985.

Term of Loans

15-year	55	13.5
20-year	185	45.5
25-year	167	41.0
Total	407	100.0

Please note that 86.5 % of the loans have terms of 20 years or more.

Mrs. Doris M. Johnson, Coordinator  
SBA-503 Small Business Coalition  
805 West 11th Street, Vancouver, WA 98660-3056  
206-699-4406 FAX 206-694-4153

**SMALL BUSINESS ADMINISTRATION:  
LEGISLATION PERMITTING SECTION 503 LOAN PREPAYMENT  
WITHOUT PENALTY  
H.R. 4298; S. 2061**

**ISSUE:**

Current legislation related to SBA's Section 503 loans imposes a stiff penalty upon borrowers who wish to prepay or refinance their loans. A change in authorizing legislation is needed to allow Section 503 loan borrowers to prepay without penalty; an appropriation to "neutralize" the cost of the foregone prepayment penalties would also be needed on an annual basis under the terms of the Credit Reform Act of 1990.

**BACKGROUND:**

The 503 loan program began in 1981. It provided long-term fixed rate financing for businesses needing to acquire industrial or commercial buildings, and to buy machinery and equipment. About \$922 million was funded through the 503 program. It was replaced in 1987 by the 504 program which substituted the private markets for the FFB as the funding mechanism for SBA-guaranteed debentures. About 3,600 503 loans remain in existence with interest rates as high as 15.7 percent. There was only one major problem with the 503 program: the prepayment penalty. Borrowers can prepay only if they pay an amount that can be invested to produce a semi-annual payment stream identical to that of the original debenture. Because market interest rates have fallen considerably since the 503 loans were made, the prepayment penalties today are as high as 64 percent of the remaining loan balances. The lower rates go, the higher the penalty. This makes it extremely difficult for most of these small business owners to refinance their loans at today's low rates. They cannot expand their businesses and create new jobs. They cannot sell their businesses or retire, since buyers would not want to take on the 503 loans which carry high interest rates. In the case of the death of a borrower, the settlement of an estate with a 503 lien imposes significant hardship on survivors and family members. 503 loans were intended to help small businesses be more competitive, but because of the unresolved prepayment issue, they are now having the opposite effect. Similar legislative solutions have been enacted for prepayment penalties for loans made by the Rural Electrification Administration and the Veterans Administration. The SBA 503 program is the only remaining Federal loan program that requires corrective legislation.

**CURRENT  
STATUS:**

The President has submitted legislation that would eliminate prepayment penalties for Section 503 loan prepayment. The President's Budget for Fiscal Year 1995 included \$30 million to cover the cost of Section 503 loan prepayments. Hearings have been held by the House and Senate Small Business Committees and the House and Senate Appropriations Subcommittees under whose jurisdiction SBA falls. Administration witnesses from SBA have testified in favor of legislation that would eliminate the prepayment penalty. There are over two hundred Section 503 borrowers who have indicated a strong interest in prepaying their high interest 503 loans. Of these, 31 have replied that they fall in the "critical" category -- that is, if they cannot replace their current high interest loans and avoid the onerous 503 prepayment penalty, their businesses will close. The Administration's bill has perhaps one flaw -- it would allow those with loans in excess

of 12 percent to prepay their loans first. This is discriminatory, and skewed in a conservative interpretation of the costs the Federal Government will accrue in the passage of such legislation. We feel:

- o The Section 503 loan prepayment legislation should allow all borrowers to prepay within the earliest possible timeframe, without regard to interest rate or loan size;
- o The \$30 million will be sufficient to meet the costs of implementing the Section 503 prepayment penalty elimination in Fiscal Year 1995;
- o Jobs will be maintained and businesses preserved in the spirit of economic development with the passage of this legislation: to fail to pass these legislative measures will result in both widespread personal hardships and the occurrence of negative economic factors counter to the economic expansion and business growth that has been emerging in the American business community over the past 18 months.

**REQUESTED  
ACTION :**

The SBA Section 503 Loan Prepayment Coalition requests that Congress support the authorization and appropriations measures that would allow prepayment of SBA 503 loans without penalty:

- (1) Vote YES on the passage of H.R. 4298 and S. 2061 (amended to allow all 503 borrowers to prepay without regard to interest rate); and
- (2) Vote YES on including within SBA's FY 1995 Appropriation (Commerce-Justice-State bill) the President's Request of \$30 million for Section 503 loan prepayment costs.

**SECTION 503 LOAN PREPAYMENT LETTERS**

<u>NAME</u>	<u>COMPANY</u>	<u>LOCATION</u>
Gary L. Ailes	Sierra Veterinary Hospital	Carson City, NV
Mary Alexander	Kwik-Way Catering, Inc.	Concord, NC
Woodrow J. Allen	Sierra Veterinary Hospital	Carson City, NV
Paul Alme	Travel Host Motel	Watertown, SD
Roger Anderson	Gortap Enterprises, Inc.	Rice Lake, WI
Robert J. Andrew	Pacific Dental Group	Tacoma, WA
Jack Bacon	J&E Steel Fabricating Corporation	Woodinville, WA
Chester W. Barrows	Carpet Products Inc.	Cranston, RI
Joseph S. Batista	Lite Haus, Inc.	Coeur d'Alene, ID
Ralph Beerman	Beerman Precision, Inc.	New Orleans, LA
Tom D. Belford, Jr.	Gentle Dental Care	Flinn, MI
A. Robert Boger	Pengad/West, Inc.	Fresno, CA
George A. Borun	La Jolla Scientific Co. Inc.	San Diego, CA

Larry M. Brown	Onions Inc.	Spokane, WA
William F. Byrd, III	Pacific Die Casting Corporation	Vancouver, WA
Albert C. Cestra	Carpet Collection	Trafford, PA
Robert & Marilyn Chandler		St. Louis, MO
William R. Cole	Cole Energy, Inc.	Plainfield, IN
Don T. Compton	Whitewater Industries	Harrison, OH
Bruce Cullons	Sound Towne, Inc.	Texarkana, TX
John D'Addario, Jr.	J. D'Addario & Company, Inc.	Farmingdale, NY
Ronald R. Danella	Cape Fear Manor Long Term Care Facility	Clarkton, NC
Ted Davenport	Coyote Archery	Corbett, Oregon
Cynthia A. Dietz	R.M. Dietz Company, Inc.	Portland, OR
Don Dobbs	Brennan Redevelopment Corporation	St. Louis, MO
Wiley E. Douglas	Po Ventures, Inc.	Thomson, GA
Eileen Dumford	Wheatland Magic Mill Cr	Wichita, KS
Wallace C. Eberhardt		Sacramento, CA
Randy Essenberg	Hydro-Chem Systems Inc.	Grand Rapids, MI
Alvin L. Evans	Standard Paint & Wallpaper	Orange, CT
Terence D. Farrar	Super Steel Treating Co.	Warren, MI
Charles M. Feeny	C.M. Feeny Co., Inc.	Worthington, OH
P. Jack Feller	P. Jack Feller, D.D.S., M.S.	Rock Springs, WY
Alan Firestone	Firestone Plywood Corp.	Hicksville, NY
Stephen F. Fisher	Security Products Company	Blaine, MN
Paul H. Fletcher	Iowa Better Trucking Bureau	Sioux City, IA
Ralph A. Fly	Clark Containers Inc.	Lyles, TN
Paul A. Forte	Turbo Action	Jacksonville, FL
Mitch Friedman	The New Norris Chevrolet Inc.	Westfield, NJ
Walter A. Furman	Walter A. Furman, Inc.	Fall River, MA
Harvey S. Gershenson	Acme Battery Manufacturing Co.	St. Louis, MO
David Geurden	Hrnak's Flowerland & Gifts, Inc.	Oshkosh, WI
Arthur Greenbaum	A.L. Greenbaum Co.	Las Vegas, NV
Jerry T. Greer	Jerry Greer Airstream	Columbus, OH
Howard F. Guerin	Pyromatics	Willoughby, OH
Peter M. Hall	PeCo Inc.	Arden, NC
Robert Hansen	Dultmeier Sales	Omaha, NE
Glenn A. Henderson	Salem Tire Center	Salem, IL
John C. Hirsch, Jr.	Power Torque Incorporated	St. Louis, MO
Hugh G. Hood	Metal-Tech, Inc.	New Castle, DE
Leslie Isozaki	K/P Corporation	Berkeley, CA
Albert J. Janek, Jr.	PFI Precision Machining	New Carlisle, OH

Doris M. Johnson	Vancouver Bolt and Supply Inc.	Vancouver, WA
James Jordan	Midas Muffler Shops	Lancaster, CA
Jeffrey Jubasz	Full Line Printing	Chicago, IL
Jack Kalman	Jack Kalman & Associates, Inc.	El Cajon, CA
Darlene Kampfer	Orting Food Center	Orting, WA
Thelma Kearns	Thelma Kearns	Gladstone, OH
Ralph Kemprud	Tower Motel	Bakersfield, CA
Lee M. Kerley	General Sales Company	Ashland, KY
Ned B. Kisner	Triangle Coatings	San Leandro, CA
William Kleiner	Astro Tool Co.	Addison, IL
Jim Knapp	K/P Corporation	Sisters, OR
Constantine Koukios	Michael A. Tawney & Company, P.C.	Grand Rapids, MI
Steve Leiserson	Kangaroo Video Products, Inc.	Sanjee, CA
Michael Lemmers	Import Auto Parts Inc.	Omaha, NE
Jay E. Lewis	J.E.'s Old Firehouse	Lake Havasu City, AZ
S.D. Lewis	Alpha-Med, Inc.	Phoenix, AZ
Jennifer Long	Tri-Village Studio	Columbus, OH
Robert F. Lowe	Lowe Animal Clinic	Woodland Park, CO
Thomas Lyden	The Moonraker	Youngstown, OH
James E. Marchessault	Business Card Service, Inc.	Burnsville, MN
Gary Marcotte	Maple Lane Nursing and Retirement Homes	Barton, VT
Daniel D. Mayhew	Davis Boat Works, Inc.	Newport News, VA
Dennis J. McCarthy	Precision Shooting Equipment, Inc.	Tucson, AZ
C. McDonald, III	Murphy Company	St. Louis, MO
Carl A. McGowan	Turf Pride	Evans, GA
James C. Middleton	Hermiston Fine Furniture	Hermiston, OR
Kenneth R. Miller	Davis Investment Company	West Des Moines, IA
William J. Moore	Moore Lithograph, Inc.	Portland, OR
James O. Morton	Carteret Lanes	Morehead City, NC
A. Joseph Muehlbach	Trioptics Inc.	Milwaukee, WI
Jerry Nelson	JT&T Products Corp	San Jose, CA
Joe Newell	Concrete and Masonry of Harlan, Inc.	Harlan, KY
John Neznik	Crystal Collision Center, Inc.	Crystal, MN
Fred F. Noonan	Fred F. Noonan Company, Inc.	San Francisco, CA
Robert L. Nybo	Nybo's Cafe, Inc.	Red Wing, MN
James O'Connor	Tech/III, Inc.	Cincinnati, OH
Donald R. Oliver		Kirkwood, MO
James M. Owens	Laucks Testing Laboratories, Inc.	Seattle, WA
Elmer W. Paetow	Aurora Import Repairs, Inc.	Aurora, CO

William K. Parker	Downtown Radio of Denver, Inc.	Denver, CO
Leo J. Polack	The Kinn Company	Minneapolis, MN
John M. Poorman	SBA-503 Small Business Coalition	Portland, OR
Douglas Price	San Diego Equipment Rentals, Inc.	San Diego, CA
Josephine C. Purkiss	Purmax Oil Company	Lindsay, CA
Peter Ragen	Homestead Products, Inc.	New Berlin, WI
Jack R. Randall	Jack Randall's Automotive	Santee, CA
Randy L. Reaume	Reaume Heating & Cooling Inc.	Grand Haven, MI
Jo Anne Reichenbach	Molding Corporation of America	Burbank, CA
David A. Renard	Renard Paper Company, Inc.	St. Louis, MO
James T. Reynolds	Reynolds, Caronia & Gianelli	Hauppauge, NY
Theresa Ann Riley	Riley Marine Products	Long Beach, CA
Marjorie M. Rogers	Rogers' True Value Plumbing, Inc.	Carlinville, IL
Edwin S. Rothberg	Industrial Metals & Surplus Inc.	Atlanta, GA
Gary W. Russell	Madeline Island Ferry Line	LaPointe, WI
Michael A. Santora, Sr.	Superior Tool Company	New Haven, CT
Randy Scaglioni	Sacramento Animal Medical Group	Cool, CA
Ken Scherer	Associated Printers Inc.	Libertyville, IL
Jean E. Schrader	Van Factory & Truck Center	Puyallup, WA
Nancy A. Schulba	Nancy A. Schulba	Alamo, CA
Nan Scott	Dy-Dee Wash	South San Francisco, CA
Marshall Scott	Marshall Scott Enterprises	St. Louis, MO
Roy A. Smith	Southern Wood Preserving of Hattiesburg Inc.	Hattiesburg, MS
Frank and Heather Smith	Dynard Innovative Engineering	San Leandro, CA
Sherwood P. Smith	Olympia Plastic Surgeons, Inc.	Olympia, WA
Robert W. Snyder	B&W Electric Supply, Inc.	Olympia, WA
James J. Speciale	Beall Manufacturing Inc.	East Alton, IL
Gene Speck	Connecting Point	Muskogee, OK
John Spoor	Spoor Dental Supply	Dayton, OH
Gerald J. Stadmueller	Clifton, Gunderson & Co.	Oshkosh, WI
Lacinda Stanfield	J's Wester	Hugo, OK
Roger Staples	Staples & Pfeiffer Inc.	Sacramento, CA
Joe and Bernice Stroh	Stroh Cleaners and Shirt Laundry	Garden City, KS
James J. Sweeney	Sadler's Smokehouse	Henderson, TX
Terry Sweeney	The Granary Restaurant	Oshkosh, WI
Ray Tom	The Print & Copy Factory	San Francisco, CA
Louise Trail	Metro Meats Inc.	Lexington, KY
Roger J. Troutman	Catawba Animal Clinic, P.A.	Rock Hill, SC
Donald R. Turner	Western Contract Furnishers	Rancho Cordova, CA

Michael A. Vacco	Scornovacca Inc.	Des Moines, IA
Kenneth N. Vitale	Rotary Multiforms, Inc.	Detroit, MI
Man L. Wai	Man Wai's Dragon House	La Jolla, CA
Avery Waisbren	AllStates Office Machines Inc.	Los Angeles, CA
Prince A. Wallace	CREDIX Corporation	Edina, MN
Charles R. Ware	Charles R. Ware	San Antonio, TX
Joseph O. Watson	Imperial Memorial Gardens/Imperial Funeral Home	Pueblo, CO
Cliff Watt	WESTAR Commercial Realty	Lubbock, TX
Henry Weber	Weber Nameplate	Santa Ana, CA
Carl Wehl	Willowood Acres Veterinary Clinic	Romulus, MI
Mike Welu	Tower Junction Inc.	Montfort, WI
Donald J. West	Arnold Dental	Seattle, WA
Frances Cerra Whittlesey	Whitcom	Long Island, NY
Zachary Widdes	San Diego Design II	Santee, CA
Gergory L. Wigton	Gregory L. Wigton, DDS	East Alton, IL
Steve Zern	Pulmonary Medicine, P.C.	West Des Moines, IA

#### STATEMENT OF ROGER J. TROUTMAN, CATAWBA ANIMAL CLINIC, P.A.

Mr. Chairman, and Members of the Committee, I am Roger Troutman of Rock Hill, South Carolina. Thank you for this opportunity to appear before the Committee and present testimony in support of legislation that permits the prepayment of SBA Section 503 loans without penalty.

In my particular situation, I borrowed \$105,000 in 1984 through the Small Business Administration (SBA) plus additional money from a local bank to build a new veterinary medical office. At the time the loan was made, our staff consisted of 2 veterinarians, 3 full time and 1 part time staff members. Presently our business and staff has grown to 5 veterinarians, 14 full time and 6 part time employees, a net increase of 19 jobs.

In 1984, the United States was experiencing an era of commercial loans having an all time high interest rate. The loan I secured through the SBA had an interest rate of approximately 14% for 15 years. Last month, I inquired with the local SBA representative concerning the terms necessary to liquidate the loan. I learned that presently the loan balance is \$62,397 and the money required to liquidate this outstanding balance would be in the \$79,628 to \$80,776 range. This translates into a penalty of approximately \$18,000 which is a penalty of almost 30% of the outstanding loan balance. Such a penalty is unheard of in the commercial banking industry today and should be totally counter to the SBA goals of trying to help small businesses. In a time when

interest rates are in the 8% range, and only weeks ago were even lower, it is absolutely unfair to require the borrowers of these high interest rate funds to not have a reasonable option to pay off the loan or refinance at a lower rate.

In my personal case, there are two reasons refinancing my SBA loan at a lower rate would be beneficial to not only myself and my business, but also my community.

Number one, our business has been fortunate to experience annual growth since its inception in 1978. We are again approaching a point where our clinic and clients may be better served by increasing our staff with an additional veterinarian and the support personnel that must be hired to handle an increasing work load. An ability to refinance the loan balance with more favorable terms could help the cash flow tremendously as our work load "grows into" the staff members that could be added.

Number two, I own some commercial property and am presently working on plans to develop this property with small business rental units. The ability for me to refinance my SBA loan would unquestionably strengthen my personal financial statement as I look to secure financing for this project. I firmly believe the taxes generated by the construction of the building and property development alone will more than offset monies lost by the government through the loss of my interest payment income if I am allowed to refinance my SBA-503 loan. Also, the newly constructed rental units will provide local job growth opportunities (thus additional federal and state tax revenues) for individuals searching for a site to locate their particular business.

I appreciate the critical review by each of you and ask that you approve these funds. I trust that after reviewing the testimony from many of the SBA-503 loan recipients, each with his or her own specific needs, you will agree with us. That is, you will feel that we have handled our businesses in a very responsible manner, that we have been good for our communities by providing employment opportunities, and that we have "paid our dues" to the SBA with the very high interest rates that we have held since our loans began. I trust that you will feel it is fair and appropriate to adjust the terms of the SBA-503 borrowers to the terms of the present SBA-504 borrowers such that we can have a prepayment penalty that declines annually and is eliminated completely at the midpoint in the life of the loan. Please understand that we

don't ask our loans to be forgiven. We ask that we may have the freedom to pay our loans in full or to refinance through other sources so that we can continue to run our businesses efficiently and effectively in the highly competitive climate of business today.

It is my firm belief, and I feel with close examination you will agree, that the proposed SBA-503 relief are funds that do not "cost" the government money, but actually reap additional tax revenues by encouraging and stimulating small business growth. It is no secret that in today's employment market, the majority of new jobs are evolving from the small business sector. As a businessman and as an individual American citizen, I, too, am concerned about our national debt. It is my personal belief that the SBA-503 relief funds will be an investment for America and not a "cost". I fully believe that if appropriated, these funds will not only be recovered quickly but generate additional tax revenues as well.

Mr. Chairman, there are many Section 503 borrowers who would like to prepay their SBA loans but cannot due to the restrictions of current legislation. We appreciate your leadership on this issue and will provide you and the Committee any additional information and support that would assist in the passage of this important legislation.

Thank you very much for allowing me to appear before the Committee. I humbly ask that you give full support to the SBA-503 penalty relief. I will be pleased to answer any questions and secure any information the Committee feels may be relevant to this matter.

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STATEMENT OF DR. JAMES BRITT, VICE PRESIDENT, SAINT XAVIER UNIVERSITY

Mr. Chairman and members of the subcommittee, I appreciate the opportunity to present this statement in support of the Saint Xavier University Center for Urban Redevelopment and Community Services. Your willingness to consider our project for Federal partnership assistance is very much appreciated.

Briefly, Saint Xavier University is located on the Southside of Chicago, where it serves a multi-ethnic population of 4,200 degree seeking students. A substantial portion of this student body is drawn from the Cook County Metropolitan area, and 75% have two characteristics in common: 1) they must work to attend college, and 2) they represent the first generation of their families to seek a college degree.

Saint Xavier serves an additional 5,000 students in non-degree programs, who attend various courses, in such areas as accounting, on a part-time basis. All of the students, full-time and part-time, reflect the rich diversity of Chicago in age, race, ethnic and socio-economic background, with the vast majority of graduates remaining in the Chicagoland area to live and work.

The University was founded in 1846 as one of the first institutions of higher learning in the State of Illinois. Established for the expressed purpose of addressing the needs of the changing urban community, Saint Xavier was, even in its early days, attending to

various social needs of the surrounding population. Over the 147 year history of the University's existence, the tradition of urban community services has remained a strong theme of Saint Xavier's program and operations. Indeed, the Board of Trustees, in a Ten-year Strategic Plan, reaffirmed that the University's programs will actively engage the major needs of Metropolitan Chicago, including education outreach at the elementary and secondary levels, healthcare and human service needs and economic development of the community. It is in this strategic pronouncement that the concept for the Center for Urban Redevelopment and Community Services is founded.

For some years now, Mr. Chairman, we at Saint Xavier have worked to design a concept which would draw on the wealth of community services and programs which the University has in place through the Schools of Nursing, Management, and Arts and Sciences. Some of the in-place services at this juncture include: working with local economic development authorities to attract new businesses; tax counseling for small businesses; working with Chicago-area healthcare agencies to assist in servicing healthcare needs of underserved and uninsured populations and community outreach efforts in the form of reading and learning disability clinics.

These services obviously give students "real world" learning experiences, but perhaps more importantly, they offer students the opportunity to give back to their communities which, in and of itself, is an ethic that does not come from textbooks. The citizens of the community, in turn, benefit from these services, and see their children growing up and returning something to their neighborhoods. In America, this is as it should be.

In keeping with the traditions of community service embodied in Saint Xavier's 147 year history, the concept we have developed will build upon past and existing successes. The Center, as we envision it, will house the multi-dimensional programs which the University will operate.

Part of what makes this institution what it is today is its long and distinguished history of aiding those most in need. This record of extending the benefits of University expertise beyond the boundaries of the campus is the reason for the Chicago community's strong affinity for Saint Xavier.

Mr. Chairman, as you know, coming from a large urban area, the problems of big-city America have been with us for many years, and while they have been mitigated during occasional periods in our history, they are still very much with us and, in many ways, not getting better. It is our considered belief that one of the reasons for the nagging continuity of these problems is that monies come in the form of social and economic maintenance programs, but the programs are not always focused on getting at the causes. When programs are administered by large bureaucracies, they cannot focus. On the other hand, an urban university, with an abundance of community familiarity, can target its efforts at the local level, and focus on people instead of policies. These local resources can be linked with local needs.

What we propose Mr. Chairman, is simply to expand upon our existing efforts on a very broad front. As I noted earlier, we already have in place a variety of proven programs with proven community successes. For example, through our Family Nurse Practitioner Program, we intend to expand our efforts in addressing the manpower shortages in primary care. This initiative is consistent with the national agenda, and what the President has put forth in his health plan.

One of the deficiencies in healthcare delivery today is inadequate primary healthcare. Saint Xavier is located within five miles of six designated Primary Medical Care Health Manpower Shortage Areas. With its strong ties to local healthcare agencies which serve a diverse urban population base, Saint Xavier's School of Nursing will expand its already existing relationships with local community health centers which serve underserved and uninsured populations. In sum, the proposed Center will enable the University to expand its program of healthcare, including worksite health promotion and health screening referrals, throughout South Metropolitan Chicago.

Closely aligned with, and a part of, basic healthcare is psychological counseling. I need not dwell on the fact that poor physical health often goes hand-in-hand with psychological problems--for both children and adults. It is our belief that urban living is often plagued with stress such that families are at risk of violence in and out of the home. Saint Xavier's Center will address the needs of families through

active intervention and psychological counseling, in concert with Chicago social service agencies. In this way, our counseling outreach efforts will help strengthen the health profile of the urban residents we serve, and discourage such maladies as aberrant social behavior among children in our cities.

As you know, parents pass along to children the habits which they themselves have learned. Nowhere is this more evident than in the learning arena. Often children in urban families experience communication disorders, which are the product of a dysfunctional environment. Left unchecked, these disorders can impact learning in the school setting. At Saint Xavier's Ludden Speech Clinic, we will expand our outreach effort, which includes at-risk children, in a comprehensive fashion to assess and treat those who are experiencing communication disorders. The assessments noted above will also, through our learning disability outreach program, screen children for dysfunctions in reading and learning abilities. Again, this is a clinical service to the community through the Center.

Mr. Chairman, I have tried to focus briefly on the health and social service components which the Center for Urban Redevelopment and Community Services will provide to the Chicago area. Perhaps the most important though, to the community as a whole, is the economic development component which is operated through Saint Xavier's School of Business.

The hallmark of our business school is in its interaction with the local small business community, providing specialized assistance and counseling to that most important and special segment of our vast economy. Saint Xavier's business school, the Graham School of Management, offers special seminars, in such areas as business information systems, marketing, accounting and financial planning--all geared to the small business owner or manager.

As we all know, small businesses are the first segment of the business community to be hurt in bad economic times, or to fail to get off the ground in good times. Without dwelling on the reasons for this fact, I will simply say, Mr. Chairman, that in the urban communities, it is the small business sector which often forges the economic ties which hold the community job base together.

In the Saint Xavier community of Southwest Chicago, the Graham School has been very much involved with local economic development since its inception. The School's faculty and students have pooled their knowledge, and undertaken several major economic development initiatives oriented toward the retention of existing small businesses, and attracting new businesses. One brief example, the Mount Greenwood initiative, involved the School's assistance in establishing a local economic development commission to plan the economic future of the area. In this case, Graham School faculty and students conducted business surveys and a campaign to attract new businesses. The result in this effort was a business vacancy rate reduction from 50% to 10% in less than two years.

The Mount Greenwood effort is not an isolated case. Other similar initiatives have been undertaken with success, and like Mount Greenwood, followed up on and monitored.

Mr. Chairman, the Southwest Chicago Metropolitan area is not unlike many other urban areas around the country. In a recent analysis by the Chicago Department of Planning and Development, it was found that nearly 30% of the area's commercial block fronts are significantly deteriorated, with another 25% in decline. In this type of an environment, adjacent residential property values decline as the job base shrinks, and ultimately families suffer.

A major component of the Urban Redevelopment Center will be to assist in revitalization of area small businesses, and the fostering of new businesses, particularly minority-owned ones. Apart from continuing work with local economic development authorities by serving as a base of operations for the planning of extended economic forecasts, the Graham School will provide counseling assistance to businesses in the areas of: accounting, accessing capital, marketing, franchising, tax preparation and a host of other business disciplines. Additionally, we will work with local banks to design loan programs to assist those who want to start businesses, but who have been shut out of capital markets.

Mr. Chairman, I could go on in far greater detail about the plans and capabilities of the Center for Urban Redevelopment and Community Services. However, I will sum up by saying that we believe that we have conceived a well-focused, interdisciplinary and cost-effective program to address many of the problems which are faced by large urban areas.

Our plan has the support of local businesses and civic leaders, including the chairmen of major corporations, our Mayor, and numerous other leaders in Chicago. This is a well-conceived and innovative approach which I believe deserves the consideration of this subcommittee, particularly in light of the project's public/private partnership concept. For FY95 we are seeking \$7.5 million in construction assistance grant monies as part of a public/private partnership. Actual operations of the Center will come from University resources.

In closing, Mr. Chairman, I will tell you that the themes of change in the new Administration are well-aligned with the programs which will be implemented by the Saint Xavier Center. In this context, the Center has all of the components of infrastructure improvements, from jobs created during construction, to enhancement of the local tax and employment bases following completion. With your help, we can make a difference in our community.

Thank you for your time.

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STATEMENT OF JOSEPH F. BURKE, F.S.C., PH.D., PRESIDENT, LA SALLE UNIVERSITY

**Introduction**

Mr. Chairman, let me begin by thanking you and all of the Members of your Subcommittee for providing me the opportunity to submit this statement for the record.

I would like to take a moment to introduce you to La Salle University. Founded in 1863, La Salle University is located near downtown Philadelphia, in a community characterized by racial, ethnic, and socioeconomic diversity. The mission of La Salle is twofold: in addition to our primary objective of providing the highest quality education possible to our students, we also have made expanding our relationship with and contributing to our urban community an institutional priority.

**La Salle University's Community Outreach Activities.**

To make the greatest contribution possible to the economic and social development of the community that surrounds our campus, and to increase the interaction between our students and faculty and the members of this community, La Salle has focused a significant amount of resources on a number of community outreach programs. A sample of these initiatives is provided below.

- **The Urban Studies and Community Services Center.** The Urban Studies and Community Services Center at La Salle is the only center of its kind in Philadelphia -- and one of only a few in the nation -- that integrates community services and academic coursework to demonstrate the results of effective cooperation between an urban university and the residents of its neighboring community.
- **Campus Boulevard Consortium.** The Campus Boulevard Consortium (CBC) is a nonprofit organization that was established to promote neighborhood, commercial and institutional revitalization in the "Campus Boulevard" community surrounding La Salle, and to strengthen relationships among its member institutions. La Salle's president has been the chairman of the Consortium since its founding in 1977.

### The LaSalle University Small Business Development Center

The Small Business Development Center (SBDC) was designed to provide comprehensive management assistance and services to the small business community in the Philadelphia area. The importance of small businesses in job creation and technological innovation is well documented. For the past two decades, two-thirds of the nation's jobs have been created within small firms. La Salle believes further progress will depend upon increased understanding of the organizational dynamics of new ventures, new models of entrepreneurship education, and better techniques for reconciling the capital needs of new firms.

Approximately 75 percent of SBDC clients are women or minorities. A key component of the SBDC is its "Urban Small Business Outreach Program," through which state and local community leaders are brought together to examine and evaluate business activity in relation to an entire neighborhood corridor. Additionally, the SBDC offers management assistance and servicing programs in the following areas:

- Guidance for preparation of business plans for new ventures and existing businesses;
- Accounting and recordkeeping;
- Financial analysis and planning;
- Marketing programs and counseling;
- Long range planning for established firms;
- Management assistance to identify management problems, develop corrective measures, create alternative solutions, and arrange for implementation and follow up; and
- Government Procurement Techniques.

### The Relationship between Education and Economic Success

As we have developed and implemented community outreach and economic development programs in the neighborhoods surrounding our campus, we have become increasingly cognizant of the link between educational performance and economic success. Without the necessary skills for productive employment, no amount of economic opportunity will result in higher levels of employment for our citizens.

As a result of this connection, education reform efforts -- designed to provide students with a higher level of employment-oriented skills -- have received increasing attention among educators, business leaders, and policy makers. In particular, we have recognized that our Nation's students do not currently possess skills in mathematics and science equal to students in the industrialized nations that are our strongest economic competitors, and that these skills will become increasingly critical to our future economic success as the focus of our economy shifts towards high-technology industries.

The changes projected in the business and industrial structure of the United States will alter job patterns considerably around the nation and in Philadelphia. The jobs that will be created over the next 10 years will be substantially different from those in existence today. A number of positions in the lower-skilled job categories will decline significantly or even disappear, while positions in higher-skilled professions will grow rapidly. Overall, the skills required for the new economy will be far more advanced than previously, with most new jobs demanding more education and higher levels of math, science, reasoning and language skills.

These occupational changes will present a significant challenge for African Americans and Hispanics, who are underrepresented in the fastest growing professions and overrepresented in the shrinking job categories, and who have historically performed less well in math and science educational programs. In cities like Philadelphia, where minorities comprise a growing percentage of the population, there is an immediate and critical need to overcome these educational discrepancies to revitalize these local economies.

#### The Institute for the Advancement of Science and Mathematics Teaching

To prepare our students, as well as the elementary and secondary school students in our community and beyond, for productive employment and economic success in the 21st century, La Salle University will undertake a comprehensive effort to improve mathematics and science teaching in the Delaware Valley Region (Pennsylvania, New Jersey and Delaware). The Institute for the Advancement of Mathematics and Science Teaching also will directly enhance the economic condition of our community, by providing training programs for individuals seeking employment in the region's growing technology-based industries, including computer and information services firms, electronics manufacturers, chemical and environmental companies and pharmaceutical and health-care related businesses.

The Institute will house an educational Resource Center, the Hypermedia Center, the Advanced Mathematics and Science Encounters (AMASE) Laboratory, classrooms, conference rooms and laboratories. The central element in the overall plan is the Resource Center, which will provide mathematics and science educational resources to be used by students, faculty, administrators, and other interested individuals, both on-campus and in the community at large, including a comprehensive database of minorities and women in associated professions to serve as role models and mentors.

Specifically, technical support will be provided to elementary and secondary school teachers throughout the region to enhance the methodologies and techniques used to deliver mathematical and scientific reasoning courses. This objective will be met by conducting in-house workshops and seminars to demonstrate and discuss specific lessons and will be supplemented by a comprehensive videotape library to broaden the dissemination of effective teaching methods. Further, the AMASE Laboratory, designed to promote "hands-on" learning, will be a significant attraction for elementary and secondary school teachers around the region who are planning field trips for their students.

A comprehensive public information campaign will be conducted throughout the Delaware Valley region, to increase the awareness of both students and faculty of the educational activities and resources available at the Institute. In addition, cable television will be used to increase the Institute's reach and to meet the needs of a diverse group of individuals around the region, ranging from elementary and secondary school teachers to business leaders and professionals, thereby broadening the impact of improved mathematics and science courses.

An important component of the Institute will involve the business community. As well as providing training programs for individuals seeking employment in the region's growing technology-based industries, the Institute will sponsor conferences and workshops focused on motivating elementary and secondary students to excel in mathematics and sciences, and to pursue educational goals that will lead to employment opportunities in industries which require proficiency in the application of scientific techniques and advanced technologies.

Finally, through the programs and activities of the Institute, La Salle intends to build upon the experience and expertise we have gained through the development of science workshops for elementary and secondary school students in the community and the creation of partnerships with a number of school districts in the Philadelphia region to establish what we believe will be a true model effort for science and mathematics education.

### The City of Philadelphia

The City of Philadelphia is an ideal location for the Advancement of Mathematics and Science Teaching, a new approach to mathematics and science education. Situated in a recently developed high-technology corridor, with a concentration of health care and information service firms, the Delaware Valley Region economy has a growing need for individuals who are well-trained in science, mathematical reasoning and advanced technologies.

Ranked as a leader in a number of fields, Philadelphia is one of the first northern industrial cities to have successfully made the transition from an economy based on heavy manufacturing to one oriented toward the delivery of technologically-advanced services. The Greater Philadelphia area, where one of the nation's first computers was built more than 40 years ago, today boasts a collection of approximately 750 technology-based companies -- the fifth largest concentration in the country -- including biotechnology, computer software, information service and electronics firms.

By the mid-1980s, high technology growth began to have a significant impact on the regional economy, evidenced by the number of individuals employed in technology-oriented industry. Based on a 1991 survey of 748 technology-based companies, more than 336,700 individuals are employed by these firms. According to many industry experts, the area's human resources, principally a high concentration of computer- and communications-trained employees, provided the impetus for the rapid development of the advanced technology industry. Therefore, there is a constant need for exceptionally skilled professionals who have expertise in mathematics, scientific reasoning and advanced technologies to support the economic growth of these industries. This growth will, in turn, create additional employment opportunities for individuals throughout the region.

### Request for Federal Support

With its focus on adult education, economic development, small business assistance, and career preparation of teachers, the Institute for the Advancement of Mathematics and Science Teaching will play a major role in the economic development of the Delaware Valley. The goals and mission of the Institute are in keeping with national and regional goals to restructure and strengthen American education to meet the unique challenges of our changing world economy. The Institute will serve as a national model that can be replicated by other institutions throughout the country for the establishment of partnerships among educators, students and business leaders to broaden the support of the teaching and learning process throughout the community. We are requesting \$10 million for this project in your fiscal year 1995 Commerce, Justice, State and Judiciary Appropriations Bill.

Again, thank you for your interest and providing me the opportunity to present testimony.

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### STATEMENT OF GAIL L. WARDEN, PRESIDENT AND CHIEF EXECUTIVE OFFICER, HENRY FORD HEALTH SYSTEM

I am pleased to submit written testimony for the record to the Senate Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Subcommittee on behalf of Henry Ford Health System in Detroit, Michigan. Thank you for the opportunity you have afforded us to share our testimony on innovative models for urban community development through a comprehensive approach to health promotion and violence prevention in the City of Detroit.

Henry Ford Health System is one of the nation's major comprehensive health systems. The roots of Henry Ford Health System go back to 1915, when Henry Ford founded Henry Ford Hospital (HFH) at what was then the edge of the City of Detroit. This 903-bed tertiary care teaching and research facility is now located in the inner city, blocks from the site of the

1967 civil disturbances in Detroit. Unlike many other businesses, the hospital leadership decided to remain in the city. In order to insure the survival of the hospital at its original location, the Ford Foundation granted \$100 million in 1971, as seed money for creation of a Health System which included building comprehensive ambulatory care centers in the suburbs, where the population was growing with employed individuals and insured households.

Today, the services of Henry Ford Health System (HFHS) include disease prevention, diagnosis, treatment, research, education, medical equipment, long-term and home health care services, and a variety of financing products including the largest health maintenance organization in Michigan, Health Alliance Plan, with over 450,000 members. HFHS offers 24-hour emergency services in six locations. The System provides about \$38 million per year in uncompensated care, primarily at the Henry Ford Hospital inner-city location. Thirty-eight percent of HFHS patients are covered by Medicare or Medicaid.

Henry Ford Health System also serves Southeastern Michigan through two affiliated community hospitals (Cottage Hospital and Wyandotte Hospital and Medical Center), one psychiatric inpatient hospital and a major substance abuse facility. The System employs 1000 group practice physicians; it includes a network of ten non-owned hospitals with approximately 1,200 affiliated physicians. HFHS offers both capitated and fee-for-service care, salaried and private practice physicians, as well as owned, managed, and joint ventured services, demonstrating that a variety of organizational paradigms can be used to meet the variety of needs of people in diverse communities.

The System receives over \$30 million in annual research funding and trains 640 residents and fellows per year. Henry Ford Hospital is a primary teaching hospital of Case Western Reserve University School of Medicine and is also affiliated with University of Michigan School of Medicine. The teaching and research missions help ensure that patients will benefit from the most recent advances of medical science.

The Henry Ford Health System is providing nationally-recognized leadership in the design and development of the kind of integrated delivery structures envisioned for the future of health care under many of the national health reform proposals. HFHS is a principal participant in national studies designed to document the absence or presence of health service integration, as well as measure performance of integrated systems. HFHS is pioneering the adaption of total quality management in physician practice and hosts a variety of outcomes and clinical practice guideline projects with the American Group Practice Association and others. HFHS has established a national network of group practice physicians to pool common experience and build cost-effective health care strategies with total quality management. The health reform goals of increased primary care capacity are addressed through an HFHS initiative to train and retrain physicians in urban family practice and primary care, as well as provide managed care and total quality improvement training for the salaried and private practice physicians currently serving HFHS patients.

Throughout its history, HFHS has placed a strong emphasis on the System's responsibility for involvement with the community it serves. The physical location of the HFHS flagship hospital in an urban community experiencing economic hardship is a daily reminder of the unique community mission to which HFHS is called. The City of Detroit's population and economic base continues to shrink, and the poverty rate is growing. An exodus of jobs, a shrinking tax base and high taxes have trapped Detroit in a downward economic spiral. The City's current economic statistical report underscores the sobering reality: 32% of Detroit's population lost since 1970; average per capita income dipping below \$10,000; housing values stagnant at one-third of the national median; and the number of manufacturing businesses dropping 48 percent in a 15-year period with few replacement jobs.

The challenges which the City of Detroit faces today are similar to those experienced by other rust-belt cities. Violent crime rose 40% in Detroit during the 1980's, and

residential blight plagues Detroit with 3,707 houses demolished in 1991 and only 356 built. Serious problems also persist in the City's school system which produces more drop-outs than graduates. Budget shortages have diminished the city's recreational facilities, resulting in eight community centers closed since 1991, and the elimination of youth sports clinics on city playgrounds.

Senior professionals in the Division of Pediatric Emergency Medicine at HFHS have devoted considerable time to examining the trends in pediatric homicide rates within the Wayne County, Michigan (i.e. Detroit municipality vs. the remainder of Wayne County), as a prototype of other metropolitan regions. The study concluded that homicides explain a rapidly growing proportion of the total pediatric mortality rate and that guns, in particular, are involved in a disproportional large number of homicide deaths.

Violent and abusive behavior exacts a large toll on the physical and mental health of Americans. Child abuse, spouse abuse, and other forms of intrafamilial violence continue to threaten the health of thousands of American families. Homicide and suicide account for over one-third of the more than 145,000 injury deaths that occur in the United States each year. Homicide is the 11th leading cause of death in the United States, accounting for nearly 21,000 deaths in 1987. Men, teenagers, young adults, and minority group members, particularly blacks and Hispanics, are most likely to be murder victims. Most homicides are committed with a firearm, occur during an argument, and occur among people who are acquainted with one another. Homicide rates in the United States far exceed those of any other developed country.

It is increasingly clear that as a nation we must develop a concerted and coordinated public health campaign which will address urban issues including poverty, drug and alcohol abuse, and working to keep our families together. Through a broad-based educational approach, we must move forward to reduce violence among children and adolescents by teaching respect and concern for others and skills such as conflict resolution.

As HFHS responds to the challenges of community service in a poor and underserved area, it is committed to a broad agenda of health care delivery. Inner city residents are at high risk for poor health status, coupled with social ills and poverty. The lack of primary care and successful preventive care results in high cost due to care being provided in inappropriate environments such as emergency rooms. Ingrained patterns of seeking care only for acute illnesses in various clinics and emergency rooms exacerbate inefficient, poorly coordinated community health care resources.

In addition to an integrated model for clinical services, HFHS's model of urban care delivery strives to focus on community-oriented programs geared to health promotion. While health systems are not expected to become leaders in the fight against the diseases of urban blight, poverty, violence, crime, and ignorance -- though they participate in those fights in very tangible ways -- HFHS is committed to a broad mission of health delivery: to screen and educate individuals about their personal health risks, help them avoid disease, and treat them effectively, economically, and in a coordinated, customer-oriented fashion when it is indicated.

Prevention is a long term and activist investment that emphasizes education and recruitment of society's youngest members who have the most to gain from prevention efforts. There are several ways in which HFHS is focusing on this urban mission:

- \* The HFHS Kingswood Hospital has developed a program to teach children skills on how to deal with conflict. A school principal from one of the most violent schools in the country located in Brooklyn, New York was brought to Detroit to speak to 200 educators about children and violence. Activity books targeted at the 6th grade level have been purchased to teach conflict resolution skills. Over 3,000 books have been distributed to local schools. A conflict resolution curriculum for the Maplegrove Day Camp has been developed.

- HFHS has established a model center which provides inpatient chemical dependency treatment for young adolescents between the ages of 12-18 years old. As part of the Maplegrove Youth Treatment Center, HFHS sponsors a 2-week day camp session for kids from chemically dependent homes. Two sessions are held each summer which will help 60 children learn to cope with the problem of living with parents who are chemically dependent.

Henry Ford Health System is well-positioned to assume both a national and regional leadership role in health promotion and community advocacy through the establishment of the "Henry Ford Center for Integrated Urban Health Care". HFHS is prepared to serve as an urban demonstration model for innovative and diverse approaches to health care and health promotion, established in a managed care environment and comprised of a clustering of various strategies into Centers of Excellence.

HFHS's proposal mirrors and complements Mayor Dennis Archer's mandate to make the City of Detroit a National Center of Excellence for health care services through the successful creation of the Detroit Empowerment Zone. Serving as a model for replication in Detroit, the midwest region and the nation, HFHS's proposed Center for Urban Care can demonstrate key health goals and objectives identified by the City of Detroit including preventive health care services for fragile seniors; affordable health care for uninsured working poor, children and adolescent services with a focus on addressing basic needs such as immunizations, prenatal care and fitness; clinical management of chronic conditions among low income and minority populations; conflict resolution training and community health promotion advocacy. Developing and testing various community partnerships and linkages with multicultural needs is a key objective.

Henry Ford Health System has a number of unique demonstration programs already in place or in embryo which form a solid foundation upon which to build expanded initiatives. A national pioneer in providing outpatient care near where people live and work, 26 Henry Ford medical centers are located in 17 communities throughout Southeastern Michigan. Through a network of connected satellite primary care centers, HFHS will expand access in a variety of urban, multicultural communities.

The demonstration "Henry Ford Center for Integrated Urban Health Care" is comprised of a number of additional components geared to addressing the broad mission of health care delivery in multicultural urban areas, including on-going research on urban and minority health and disease; advanced information management systems that are the basis for case management, outcomes measurement and the health status of at-risk patients; and a demonstration of adolescent violence intervention and acute crisis intervention through school-based educational training programs and other community advocacy activities.

Research activities at Henry Ford Health System focus on real-world, urban issues. Recently-published HFHS research on pediatric mortality and trauma mortality has helped identify and quantify important problems that can be approached from a system perspective. Participation in the National Cooperative Inner-City Asthma Study, funded by the National Institute of Allergy and Infectious Diseases, helps identify factors that lead to the high rate of pediatric mortality from asthma in the community and design successful interventions. Studies of minority chronic disease patterns and treatment, trauma, and patient responses to positive mammogram results provide insight into some of the community's pressing health problems.

Henry Ford Health System is eminently qualified to assume a national and regional leadership position through its demonstration Center for Integrated Urban Health Care geared to modeling the delivery of health care to urban areas and a comprehensive action agenda for urban health care reform.

In order to proceed, Henry Ford Health System will dedicate significant institutional resources, and is undertaking a major capital campaign to attract matching support from

private sources. Henry Ford Health System is seeking a federal partnership to begin the first phase of the Center for Integrated Urban Health Care.

We believe that our proposed expansion of school-based, community advocacy initiatives geared to violence prevention will be of particular interest to the Department of Justice, Office of Juvenile Justice and Prevention, and we therefore request up to \$2 million in program funding for this purpose within the FY 1995 Commerce, Justice, and State, the Judiciary Appropriations Bill.

As we at Henry Ford Health System move into the next decade and the next century of health care delivery, we believe that we have a significant contribution to make to the nation. By sharing the lessons we have learned in making the transition to a regionally-based vertically integrated health system of collaborating hospitals, doctors, other health service providers and community leaders, we hope to be able to encourage innovation for hospitals, physicians, and medical centers across the country. The "Henry Ford Center for Integrated

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STATEMENT OF DR. THOMAS MANION, PRESIDENT, ST. NORBERT COLLEGE

Mr. Chairman and Members of the Subcommittee, I am Dr. Thomas Manion, President of St. Norbert College in De Pere, Wisconsin. I would like to thank the subcommittee for the opportunity to submit the following testimony on behalf of the federally funded International Center at St. Norbert College.

The International Center at St. Norbert College has been assisting small and medium sized businesses throughout the State and region since its inception in 1988 by providing programs and activities designed to educate small businesses on economic opportunities both in the United States and abroad. A 1990 survey conducted by the Survey Center at St. Norbert College confirmed a strong need among the Wisconsin business community for continuing education programs on topics related to expanding markets and international trade. In response, St. Norbert College's International Center began to emphasize programs in trade skills, language, and culture for small businesses. The International Center also provides Wisconsin businesses with a clearinghouse of domestic and international market opportunities. Some recent activities and programs include:

- an economic summit in 1992 featuring Dr. Benjamin Friedman, Chairman of the Department of Economics at Harvard University and Dr. Barry Bosworth, a Senior Fellow of the Economic Studies Program at the Brookings Institute;
- creation of the "mentor program" designed to meet the needs of small and medium sized businesses for information, counseling and training. The "mentor program" emphasizes St. Norbert's commitment to assist small businesses expand their export and diversification potential;
- a small business seminar entitled "Bringing Your Products to the World Market". The seminar provided information and skills for initiating or expanding international operations and reaching untapped global markets. A second seminar on this topic is currently underway at the International Center;
- ongoing discussions with the Wisconsin Procurement Institute concerning possible joint activities in the field of defense conversion;
- an agreement with the State of Wisconsin in which the International Center has been designated a State International Trade Office;
- seminars on the Nuts-n-Bolts of the export market and on businesswomen wishing to enter the export market, and;

- strategic planning workshops in five locations around the State designed to assist Wisconsin companies capitalize on international export opportunities.
- a five week study abroad seminar in Southeast Asia by twelve St. Norbert faculty. The group will study the economies and cultures of the Philippines, Malaysia, and Singapore.

As these programs demonstrate, St. Norbert College is committed to assisting small and medium sized businesses grapple with the fluctuating economy and expand their markets. Perhaps, most importantly, the effect of these programs will be the creation of much needed jobs.

Mr. Chairman, small business-assistance programs such as the one administered by the International Center have become even more important in recent years because of Defense Department spending reductions which are reverberating throughout the defense industrial base. Small businesses are seeking information on diversification and alternate applications for their products and technologies. It is important to emphasize that the International Center is already working with the small business community and, therefore, will be able to react quickly to the needs and concerns of Wisconsin's businesses affected by defense spending reductions.

Mr. Chairman, I believe the International Center is deserving of this subcommittee's support because the programs and outreach efforts offered by the International Center will serve as a model for other regions throughout the country. Universities and colleges will be able to look to the program established by the International Center as an example of how they can work within their communities to assist local businesses to expand their markets internationally.

This subcommittee was extremely supportive of the development of the International Center facility and we at St. Norbert College are greatly appreciative of the commitment this past support represents. I hope the subcommittee will continue to support the business assistance and export promotion programs at St. Norbert College. These programs will help provide small businesses with the expertise necessary to compete in the global marketplace.

Thank you for the opportunity to submit this testimony.

#### STATEMENT OF THE NATIONAL ASSOCIATION OF STATE FORESTERS

The National Association of State Foresters (NASF) represents the directors of the fifty State Forestry agencies and three territories (Guam, Puerto Rico and the Virgin Islands). NASF's following comments and recommendations pertain to two programs that are important to us: the U.S. Small Business Administration's (SBA) Natural Resource Development Program and the National Weather Service's (NWS) Fire Weather Forecasting program, which is funded through the National Oceanic and Atmospheric Administration (NOAA) appropriation.

##### **SBA Natural Resource Development Program**

The U.S. Small Business Administration's Natural Resource Development program, better known as SBA Tree Planting, is in its fourth year of implementation. The program has successfully accomplished the objectives that this committee has set for it and provided many benefits to communities beyond that vision. NASF is aware that many in Congress have been critical of the program, arguing that the SBA doesn't belong in the tree planting business. While we understand Congress's need to restrain spending in these tight fiscal times, we encourage you to take a close look at this program; we believe you will see that it warrants continued support.

The program has generated employment and incentives for small businesses across the country. This program does not put the SBA in the tree planting business: SBA provides

seed money to the States, which they match at a rate of one and a half to one. The money is used to hire private contractors to plant trees on public grounds and lands. Trees are purchased from the private sector. The State Forestry agencies have been designated as the lead agencies to administer this program in almost every state, and are enthusiastically pursuing the program as part of a comprehensive tree planting effort. Beyond that, this program has generated a great deal of enthusiasm for community tree planting programs and has mobilized volunteer groups to get involved in tree planting and care efforts.

In the first three years (FY 91-93) of the program's implementation, approximately \$59 million has been awarded to the 50 states, Washington, D.C. and Puerto Rico. These grants have generated more than \$88 million in matching contributions from the states. More than 15.1 million tree seedlings have been planted in rural areas and approximately 831,000 saplings throughout cities and communities. Including the current fiscal year, more than 5,600 projects have been funded involving thousands of small businesses nationwide.

On average, 22 projects were funded in each state. And since states pay the administrative costs and provide other matching funds, this program gives the federal government a good return on its investment, in addition to providing trees for our communities. Federal funds are not used for administrative costs; the total federal investment goes directly into tree planting. In addition, states and localities have in some cases agreed to long-term care as their part of the cost-share, so that they develop long-term commitments to the capital investment made with the SBA grant.

This program has been very well received in the states and local communities. In addition to generating jobs, the program has stimulated focus on community efforts to plant and care for their neighborhood trees. The program has also complemented on-going efforts under the USDA Forest Service's Urban and Community Forestry program.

NASF recommends that the subcommittee fund this program at a continuing level of \$18 million. We are aware that the authorization of this program ends with Fiscal Year 1994; we strongly urge you to extend the authorization for this program.

#### **NWS Fire Weather Forecasting Program**

NASF appreciates the continuing support the committee has given to the National Weather Service's (NWS) Fire Weather Forecasting Program. We are also pleased to note that the Administration has seen fit to support a modest appropriation to fund this small but important program as part of the National Weather Service's base budget. State Forestry agencies have traditionally borne principle responsibility for protecting state and private forest, range, and watershed lands from wildfire and are also a major partner in assisting fire fighting efforts on federal lands. Local, state, and federal government agencies with wildland fire protection responsibilities work together under formal cooperative agreements to protect the nation's wildlands.

Currently, the Fire Weather Forecasting Program provides critical and specialized information to a broad range of federal, state, and local fire fighting organizations who are integral partners to fire prevention and control efforts. These meteorological services are also necessary for local implementation of the federal Clean Air Act regulations for wildland smoke management programs. A third use is for insect and disease control measures. The meteorological information provided by this program is vital to protecting lives, property, homes as well as important forests and other ecosystems. This program has been especially critical over the last several years, when the Nation has seen some of the most destructive and costly fire seasons in history.

We appreciate the Administration's continuing support for this program, and we recognize the efforts of this subcommittee in preserving this program when it did not receive similar support from previous Administrations. The Administration's budget recommendations for Fiscal Year (FY) 1995 represent a continued and strengthened commitment by fully supporting within the base budget full meteorological services to all the partners involved with fire wildland management and protection. The base budget will allow State forestry

agencies to continue to actively plan and provide the partner resources necessary in the nation's wildfire prevention efforts; NASF supports the Administration's recommendations for FY 1994.

This committee is aware of the National Weather Service's modernization and restructuring plans. NASF supports these plans and expects that it will better allow the NWS to meet future demands and needs. NASF is participating in planning for modernization and restructuring in order to ensure that the goal of meeting or exceeding current levels of services to fire weather users is met. Population pressures and dramatic changes in land use are only two of many factors that make fire protection increasingly complex. I have recently returned from a summit of agencies and groups that use fire weather forecasting services. The need for accurate, up to the minute weather information has never been higher with the types and magnitudes of fire hazards we currently face. We will work with the other users represented at this summit to keep this subcommittee up to date on those needs.

#### NASF Budget Recommendations - Fiscal Year 1995

##### Commerce, Justice, State, Judiciary and Related Agencies

(\$ in thousands)

	Final FY '94	Recommended Admin. FY '95	NASF FY '95
SBA Natural Resources Devel. (Tree Planting Program)	18,000	0.0	18,000
National Weather Service Fire Weather Forecasting	449	449	500

#### STATEMENT OF THE STATE MARITIME ACADEMIES, COLLEGES OF CALIFORNIA, MAINE, MASSACHUSETTS, NEW YORK, TEXAS, AND THE GREAT LAKES REGION

We, the Presidents and Superintendents of the State Maritime Academies/Colleges of California, Maine, Massachusetts, New York, Texas, and The Great Lakes Region, appreciate the opportunity to present our comments on the Department of Transportation Maritime Administration's (MarAd) proposed budget for maritime education and training. We also look to this Subcommittee for, and urge you to move forward on, Maritime Reform. Maritime Reform will continue to provide jobs for the young men and women of our nation.

We serve a major segment of the transportation industry - the maritime industry. This vast industry is, contrary to many reports, continuing to grow worldwide. Waterborne commerce is, and will continue to be, a necessity.

The State Maritime Academy System is a cost effective investment in education, jobs, and our Nation's waterborne commerce. We are the prime recruiters, trainers, and educators for the total Maritime Industry. We are meeting President Clinton's education and training objectives by providing worker training in all segments of the industry.

As contained in the Maritime Education and Training Act of 1980 and its predecessor Acts, our Nation's State Maritime Academies, with minimum Federal assistance, provide education and training for jobs afloat and ashore in the Maritime Industry.

Under this system the Federal Government joins with the States and students in sharing costs.

We provide licensed officers for the deep sea fleet, the inland waterways, Great Lakes, tug and barge, coastal and off-shore supply. Ashore our graduates work in every facet of the industry ranging from ship design to shipbuilding and repair to marine insurance, brokering, chartering, freight forwarding, Port Authorities, intermodal and container operations, admiralty law, environmental protection, oil spill response and on and on. We have expanded our curriculums to include the marine environment, oil spill response, etc. The opportunities for jobs are vast and diversified! We are developing the work force of the future.

Two of our training ships are dual purposed as troopships in the RRF. Expenses are cost effectively shared by the States and Cadets (students). New York's training ship EMPIRE STATE was recently activated as a troopship to ferry troops from Mogadishu, Somalia to Mombasa, Kenya. On a related issue we strongly urge your support for replacement of California's training ship, the last in the inventory to be replaced. This ship, built in 1939, is older than the NDRF ships currently being scrapped. Her continued useful service will necessarily soon come to a close.

The State Maritime Academies, even during these recessionary times, have provided America's young men and women a first class education with over 90% job placement a few months after graduation. Our cost-effective method of training is vital to ensure that our Cadets meet the stringent requirements of Coast Guard safety regulations, The Oil Pollution Act of 1990, International Maritime Organization Standards of Training, Certification and Watchkeeping, the Water Resources Development Act of 1990, and the National Transportation Policy during a time of great environmental sensitivity. Your support has further allowed the State Maritime Academies to adjust to changing times and to initiate new courses of study providing a trained manpower pool which fills jobs in growth areas of the maritime industry such as environmental training, contingency planning, maritime management and marine medicine. In an era when jobs are critical, your support has been an investment in people, employment and income. It is a commitment to opportunity, an investment in tomorrow.

The State Maritime Academy concept, carefully crafted by the Congress, ranging from the training ship-troopship concept to shared training and education expenses, is the most cost-effective Federal program today.

We fundamentally support the President's budget. However, we are deeply concerned that this year the budget does not contain \$1.2 million funding for marine simulators as has been previously authorized and appropriated. This funding has been diverted to offset other Maritime Administration costs. This represents a 10% cut and returns us to the 1987 funding level. Our plans for next fiscal year are based on flat funding.

Marine simulators, such as bridge, liquid loading and diesel, allow us to take maximum advantage of technology. Also, they must continue to be updated. These simulators improve our way of learning. Clearly other maritime nations understand this as they are already ahead of us in this regard. In 1990 and again in 1991 MarAd strongly supported funding assistance to the State Maritime Academies for simulators funded to a total of \$10 million spread out over several years.

All maritime nations have recognized in recent years that old training and qualification methods are becoming obsolete with the increased size and complexity of modern commercial ships. In

the United States both the U.S. Coast Guard and the Maritime Administration are placing increased emphasis on more formal, structured training with a particular emphasis on the use of simulation in training and assessing the skills of prospective and serving licensed Merchant Marine officers.

In their November 1993 study ("Licensing -- 2000 and Beyond"), the Coast Guard makes a strong case for the revision of traditional standards of qualification for licensing and upgrading merchant marine officer licenses, deemphasizing the importance of just the numbers of days at sea and placing greater emphasis upon realistic training and experience in the more challenging situations mariners face when they are not alone on the open ocean. The study specifically addresses the value of simulator training and its ability to expose students and officers seeking license renewals or upgrades to challenging situations which test the skills required to assure safe navigation under all conditions. It is anticipated that the day is near when deck officers seeking licenses or renewals will have to document a minimum number of hours of recent simulator training as well as the traditional yardstick of specified sea time. Radar Simulator Training is already required for the Radar Observer endorsement on deck officer licenses and it is also anticipated that similar criteria will be developed for engineering officers.

The potential risk posed to property, lives and the environment when officers navigate and operate the machinery of today's large and complex ships requires that they be trained to handle the many situations which can arise and which require immediate and correct action. Early and continuing training in those circumstances through realistic simulation may be the only practice they have before being confronted with the real situation. The aviation industry recognized this long ago and has used simulation effectively to prepare pilots and cockpit crews to handle every type of equipment and emergency situation before they ever carry passengers. The maritime industry and its training institutions can and should do no less. The investment in simulation equipment and training is insignificant compared to the catastrophic damage of another Exxon Valdez or Stockholm-Andrea Doria.

We are also concerned that the Office of Management and Budget has earmarked for removal the language which allows for the funding for facility and ship maintenance, modernization and repair, acquisition of equipment and fuel costs from the proceeds of the disposal of NDRF ships. Following on from the language provided by the Congress the last three years we strongly recommend that this committee, as a continued investment in America's security and the Maritime Industry, restore the language bracketed for removal and thus commit the funds generated from the disposal of NDRF ships to support the special needs of the State and Federal Maritime Academies. What better way is there to use these funds than for the education and training of our Nation's youth aspiring to jobs in the maritime industry?

Our most pressing need is funding assistance for training ship fuel. We collectively require \$1 million in fuel assistance each year. Lack of fuel funding assistance will impact on our ability to graduate the majority of our Nation's licensed officers. Although Section 1304(c)(2) of the 1980 Federal Maritime Education and Training Act authorizes MarAd to provide fuel funding, it has taken special language on an annual basis for MarAd to do so.

Congress met this need the last three years by making funds available that were derived from the sale of obsolete vessels in the National Defense Reserve Fleet (NDRF) and during Desert Storm by adding an Emergency Supplemental that allowed the Maritime Administration to offset fuel costs from unspecified funding available in our budget lines.

Under the 1980 Federal Maritime Education and Training Act, the Federal Government provides funding to the State Maritime Academies for:

1. A training ship plus ship's maintenance/repair and fuel money when authorized (Great Lakes excluded) to allow our Cadets to meet the Federally mandated "sea time" license requirements.
2. \$100 thousand per school for administration of a State Nautical School and up to \$200 thousand for regional schools, i.e., Great Lakes.
3. Student Incentive Payments (\$250/month) for students accepting commissions in the U.S. Naval Reserve/Merchant Marine Reserve.

In terms of Federal expenditures, the State Maritime Academy system is our Nation's most cost-effective system to produce licensed officers, officers already noted by experience to be in short supply, a supply predicted to become very short in the outyears.

So that we may cost-effectively continue to serve and provide an educated and trained labor pool for our Nation, we request:

1. In addition to the necessary expenses of operation and training activities, continuation of the authorization of \$1.2 million for payments to State Maritime Academies to acquire and upgrade maritime training simulators and thus meet new Federal and International requirements.
2. Restitution of the language in the President's Budget recommended for deletion by the Office of Management and Budget regarding the use of proceeds derived from the sale and disposal of National Defense Reserve Fleet Vessels for facility and ship maintenance, modernization and repair, acquisition of equipment and fuel costs necessary to maintain training at the Federal and State Maritime Academies.

We appreciate your past support and trust and hope that we may continue to receive it in the future. We want to continue to provide high quality jobs by meeting the requirements of our Nation's Maritime Industry, the recently ratified IMO-STCW standards, the National Transportation Act, the Water Resources Development Act of 1990, and the Oil Pollution Act of 1990. We want to continue to be a cost-effective contributor to our Nation's economy and security. We want to continue to provide young men and women the skills to hold productive jobs in our Nation's Maritime Industry and thereby contribute to its economy. We must continue to provide hope to our students in the near term and at the same time prepare them to meet the needs of tomorrow.

We would be pleased to assist you in any studies you may wish to undertake with regard to the matters we have raised and would be happy to have the opportunity to discuss our situation with you and your staff at your convenience. We trust you will give our requests and our views your favorable consideration.

STATEMENT OF MATTHEW P. FINK, PRESIDENT, INVESTMENT COMPANY  
INSTITUTE

My name is Matthew P. Fink. I am President of the Investment Company Institute (Institute), the national association of the American investment company industry, more commonly referred to as the mutual fund industry.<sup>1/</sup> We appreciate the opportunity to submit testimony on FY 1995 Appropriations for the Securities and Exchange Commission (SEC).

At the outset, I want to commend the Chairman and the Subcommittee for their prior efforts to increase the resources of the SEC. As you know, mutual funds have become increasingly important to middle class Americans seeking to save and invest. Today, more than 38 million individuals, one in every four households, own mutual fund shares. Mutual fund shareholders have a median household income of \$50,000. Those millions of average Americans deserve vigilant regulatory oversight over mutual funds. That objective can be accomplished only if the SEC is funded adequately. Given the increasing importance of mutual funds to millions of investors, sufficient and stable funding of the SEC should be a priority, even in the face of mounting deficit reduction pressures.

The effort to provide a more stable source of funding for the SEC began in late 1988. At the direction of Congress, the SEC undertook a study to examine the possibility of transforming the SEC from a federally appropriated to a self-funded status. Since the release of that study in January 1989, the Congress and both the Bush and Clinton Administrations have attempted to implement a financing mechanism for the SEC that would fully sustain the operation of the SEC through user fees. However, the effort to implement this proposal through authorizing legislation has proven exceedingly difficult due to the complex requirements of the Budget Act. Thus, the subcommittee has played a pivotal role in responding to the financial needs of the SEC.

I want to make clear that the Institute and its members support the concept of self-funding for the SEC. Last year, the Institute offered its strong support of H.R. 2239, the Securities and Exchange Commission Authorization Act of 1993, which passed the House. In other statements before Congress, the Institute has stressed the need to increase funding for the SEC, especially for the Division of Investment Management, which regulates the mutual fund industry. The Institute recognizes that the growth rate of the mutual fund industry will strain the SEC's resources. For this reason, the Institute supports giving the SEC adequate financial resources, through self-funding, to provide effective regulatory oversight of mutual funds to ensure that they are operated in a way which continues to protect the interests of investors.

The Administration's budget envisions that \$306.3 million would be provided to the SEC without any appropriated funds. The Administration's proposed funding level would be obtained solely from fee increases since 1990 or new fees which would be deposited as offsetting receipts against the appropriation. The President's proposal would fund the SEC solely from these increased or new fees which include the extension of what has become a 70% increase in the Section (6)(b) registration fee

1/ The Investment Company Institute membership includes 4,807 open-end investment companies (mutual funds), 442 closed-end investment companies and 13 sponsors of unit investment trusts. Mutual fund shareholders of Institute member companies have assets of over \$2.1 trillion, representing approximately 95% of all mutual fund assets.

over the last 4 years. Additionally, the President's proposal includes four new increases in various SEC user fees.<sup>2/</sup>

As supportive as we are of self-funding, the Institute must oppose the Administration's proposed method of implementing self-funding for the SEC in its FY 1995 Budget proposal. The President's proposal appears to be a straight forward self-funding program, but that is not the case. Instead, the \$306.3 million in fees are in addition to an estimated \$500 million in FY 1995 which is to be collected under the guise of SEC user fees, but instead will be deposited into the General Fund of the Treasury. To put the Administration's proposed fee increases in context, since fiscal year 1983, SEC fees have yielded about \$1.5 billion more in excess fees than the amounts actually made available to the SEC. In the current fiscal year alone, the amounts collected under the provisions of permanent law would be more than sufficient to fund the SEC's operations. Thus even if the Appropriations Committee made no fee adjustments for FY 1995 and allowed Section (6)(c) fees to return to the statutory level of 1/50 of one percent, the fees collected would exceed SEC's budget.

True regulatory user fees are usually those which:

- are assessed and collected solely to cover the costs of regulatory activities;
- are imposed upon those who are in fact subject to the specified regulatory activity; and perhaps most importantly
- are assessed and collected in proportion to the regulatory costs of specified regulatory activities.

Unlike H.R. 2239, the Administration's Budget proposal provides no means for ultimately bringing user fees and the SEC's funding requirements into equilibrium. For that reason, the proposal for self-funding in the President's Budget violates the concept of true user fees.

2/	Fee Type	Existing Fee	New Fee
1.	Securities Act of 1933 Fee: Section (6)(b) securities registration fee.	1/50 of one percent (increased for one year in P.L. 103-121 to 1/29 of one percent)	Continuation of Increase to 1/29 of one percent
2.	Securities Exchange Act of 1934 Fees: Section 31 fees on the sale of all exchange listed securities.	1/300 of one percent	1/250 of one percent
3.	Expand the imposition of Section 31 fees to cover the counter securities transactions.	not applicable	1/250 of one percent
4.	Increase merger and tender offer filing fees col- lected under Sections 13(e)(3), 14(g)(1)(A)(i), 14(g)(1)(A)(ii), 14(g)(2), and 14(g)(3)	1/50 of one percent	1/29 of one percent
5.	Replace the existing one-time \$150 investment adviser registration fee with a new initial registration fee and an annual fee (based on the volume of assets under management) to cover the cost of 195 new special inspectors. These fees shall be set at a level to yield not more than \$16.6 million.		

Were the Administration's Budget proposal enacted, with its growing gap between fees and actual costs of regulation, it would have the characteristics of a tax on capital formation, savings and investment; a tax paid by 38 million mutual fund shareholders. Such a tax is inequitable to these millions of middle income Americans. Mutual funds permit thousands of investors to pool their resources in a fund which, in turn, invests in a large number of securities under the supervision of a professional investment advisor. The shareholders of the fund are its owners and are entitled to all of its net income, which consists of the gross income generated by the fund's investments less the fund's operating expenses. Any increase in its expenses, including an increase in fees paid to the SEC, directly impacts the net income received by fund shareholders.

Through our support of H.R. 2239, the industry has demonstrated an acceptance of temporary significant surplus fees to facilitate the transition of the SEC to a self-funding agency. This support, however, was in anticipation of the SEC regulatory fees, over time, becoming true user fees designed to pay for the services provided.

We are continuing to work with the House and Senate authorizing committees to develop self-funding legislation which meets the complexities of the Budget Act, yet does not indefinitely perpetuate the current excessive fees structure. We would hope that the Congress will enact a self-funding mechanism for the SEC which will, in the long run, result in budget savings, while also providing the SEC with the financial support necessary to protect millions of investors, including over 38 million mutual fund shareholders. In the absence of an authorization, however, we would ask that the Administration's SEC request of \$306.3 million be funded through the existing fee structure at existing fee levels. If there is a shortfall, we urge that it be made up through appropriated funds, as has been done for the past several years.

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STATEMENT OF AMBLER H. MOSS, JR., DIRECTOR, NORTH-SOUTH  
CENTER, UNIVERSITY OF MIAMI

Mr. Chairman and Members of the Subcommittee, I genuinely appreciate the opportunity to present this statement for the record to seek your continued support in FY 1995 for a unique national resource: the North-South Center at the University of Miami.

At no time in recent history has the United States had such a great opportunity to make a positive impact on the process of change in the Western Hemisphere. In partnership with the nations of Latin America, the Caribbean, and Canada, our country is exploring ways to increase hemispheric trade to unforeseen levels. Peace and political reconciliation have come to Central America after a decade of strife, but many problems remain. In South America, democratic governance is being tested by corruption, drug trafficking, civil-military tensions, and fundamental questions concerning the balance of governmental powers and the need for equal treatment before the law. Hundreds of thousands of potential immigrants from the Caribbean and elsewhere continue to regard the United States as an economic or political haven. The restoration of Haiti's duly elected president is an important goal for the support of democracy in the hemisphere, but viable policy options have been elusive.

As President Clinton clearly recognized in inviting 34 Western Hemisphere heads of state to the Summit of the Americas to be held in Miami in December 1994, the consequences of the powerful forces of hemispheric economic integration, immigration, drug-trafficking, and democratization reach into America's shops, factories, schools, and homes, directly affecting the American family.

The North-South Center is the non-governmental embodiment of the hemispheric agenda that will be addressed at the 1994 Summit of the Americas in Miami. The Summit mirrors

thematically the Center's priority issues: Democratization, Political and Social Change with Equity, Trade, Economic Growth and Sustainable Development.

Moreover, the North-South Center is the *only* research, public policy studies, grant-making institution and information center that carries out a full complement of programs and grants exclusively devoted to finding practical policy options to address the problems confronting the nations of the Western Hemisphere.

The occasion of the Summit is a revalidation of the North-South Center's core mission: To promote better relations and serve as a catalyst for change among the United States, Canada, and the nations of Latin America and the Caribbean by advancing knowledge and understanding of the major political, social, economic, and cultural issues affecting the nations and peoples of the Hemisphere.

In its short history of federal funding, the Center has oriented its research, outreach and publication programs to pursue the following overarching objectives:

- Produce policy-relevant research on important issues facing the hemisphere.
- Establish the Center as a catalyst for ideas to promote solutions of important Western Hemisphere problems.
- Promote democratic governance and social change with equity in the Americas.
- Support, through analysis and debate, economic growth and development and regional trade integration in the Hemisphere.
- Expand and deepen institutional linkages around important hemispheric issues.
- Provide a forum for the study of environmental policies that promote sustainable development.
- Increase understanding and appreciation of the cultural heritage and creative arts of the Western Hemisphere.
- Promote the study of Inter-American policy issues within a global context.

One of the most unique, relevant and practical features of the North-South Center is its capability and record of achievement in moving beyond recognized academic accomplishments to tackle a broad array of issues in a manner of direct use to policy-makers. At the same time, the Center fulfills its mandate as a national resource on the Americas through outreach and publications disseminated widely to the policy community. The breadth and quality of its publications on Inter-American affairs remains unmatched: Through the *Journal of Interamerican Studies and World Affairs*, *North-South: The Magazine of the Americas*, the *Issues and Focus* report series, the *North-South Agenda Papers*, and other outlets, including its publication of over 15 scholarly and policy-relevant books each year, the Center provides both rapid and widespread dissemination of the products of its research, conferences and studies. Still the only one of its kind, INFO-SOUTH, the comprehensive, on-line database, provides instant, 24-hour access to the exploding volume of literature on the region, and provides research support for work at U.S. government agencies, businesses, and other institutions on policy-related initiatives.

One can best appreciate the significance of the North-South Center's unique ability to marry sound scholarship with policy-relevance and practical alternatives by way of a few examples selected for their prominence on the hemispheric agenda:

#### ***Analysis of Pressing Policy Issues: Haiti***

No recent issue on the Inter-American agenda has been as vexing as support for democracy in Haiti. To contribute to a discussion of policy alternatives grounded in a serious analysis of Haiti's history, political culture, and institutions, the North-South Center commissioned a review of the major policy options by noted Caribbeanist, Anthony Maingot. Published as a *North-South Agenda* paper in March 1994, Maingot's policy essay has received wide attention from

the major media outlets as well as policy-makers in the United States and throughout the Caribbean.

*Trade: Designing the Architecture of a Western Hemisphere Free Trade Area*

The economic future of this country depends on our ability to compete effectively both at home and in global markets — particularly in the Latin American market, where the United States sold more exports than it did to Japan or Germany, and to which the rate of increase in U.S. exports over the past few years has been three times as great as that to all other regions.

Building on sound economic policies and private sector-led growth and development is a central focus of the North-South Center's programs on trade. In one project, together with the Inter-American Dialogue, the University of Texas, and the Center for Strategic and International Studies, the North-South Center has sponsored the only major research and outreach program on Designing the Architecture of a Western Hemisphere Free Trade Area, a collaborative effort to better inform policy-makers on the most rational and practical methodology to help shape *workable, free, and fair regional trade agreements*. Meetings between experts and high-level government officials have already been held in Miami and Washington, a "white paper" report is being prepared for wide dissemination, and a major research volume with policy recommendations will be published by the North-South Center in time for the Miami Summit of the Americas in December.

*Trade and the Environment*

Nowhere has the North-South Center been more visible than in helping to find practical approaches to reconciling the need for economic growth through trade with protection of the environment in the Americas. In collaboration with other research and international organizations, the Center has co-sponsored major research and outreach initiatives on the important nexus between trade and the environment.

A major diplomatic and research initiative with the Organization of American States on International Trade, the Environment and Sustainable Development culminated in the publication by the North-South Center of *Difficult Liaison: Trade and the Environment in the Americas*, the first book to focus on the complex relationship between international trade and the environment in the Western Hemisphere. U.S. Secretary of the Interior, Bruce Babbitt, called the volume of policy-relevant essays, "an act of prophecy and, at the same time, a magnificent work of scholarship" that would "light the way regarding the conjunction between trade and environment."

A "White Paper" released in early 1994 offers policy-makers and practitioners the first comprehensive methodology to evaluate the effects of a free trade agreement on the environment. In collaboration with the University of Texas, U.S. and Venezuelan scholars and government officials, the "white paper" report, *Free Trade and the Environment: A Prospective Analysis and Case Study of Venezuela* offers the policy community an "off the shelf," interdisciplinary methodology which can be used to evaluate the potential effects of a free trade agreement on any Latin American or Caribbean country or region. This methodology can be employed by national governments before and during formal free trade negotiations to focus on certain areas of economic activity that have potentially negative consequences for the environment and which may require specific treatment in the form of an environmental pact attached to the free trade agreement. The white paper has already enjoyed wide distribution in the policy community, and the Center plans to use the methodology to analyze other bilateral free trade scenarios, with the next focus to be on Chile, a primary candidate for a free trade agreement with the United States.

*Political and Social Change in Central America*

Since 1990, an atmosphere of negotiation and reconciliation has supplanted a decade of armed conflict in Central America. But the democratization process remains incomplete and precarious,

with high levels of mistrust among key actors in the political process. Over the past year, the North-South Center has acted as a catalyst for positive change in the region by serving as a bulwark and bridge in furthering political dialogue in El Salvador and Nicaragua. In El Salvador, the Center co-sponsored an international conference on "Reconciliation in Times of Transition," a gathering of diplomats, politicians, and former protagonists in El Salvador's civil war. Building on this successful event, the Center then arranged a series of meetings and briefings for El Salvador's principal candidates for the presidency with influential academic, business, government, and policy groups in Washington and New York. In recognition of its contribution to the process of democratization in El Salvador, the Center was asked to send staff as invited observers of the March and April 1994 presidential elections, which significantly advanced the process of democratic consolidation in El Salvador. The Center has played a similar, behind-the-scenes role in advancing dialogue among Nicaraguans. In April 1994, the Center helped arrange and hosted a first-ever meeting between Nicaraguan exiles and officials from the Department of State and the Immigration and Naturalization Service to begin informal talks dealing with such sensitive political issues as the restoration of property and the legal framework for the treatment of immigrants and refugees.

In each of these instances, the reputation and track record of the North-South Center has enabled it to perform as an agent for positive change, serving as a neutral, honest broker in a way that other institutions simply cannot.

#### *Democratic Governance and Economic Reform*

The process of economic reform in Latin America has been painful and at times has produced unintended consequences that pose serious challenges for democratic governance. To realize the full promise of our Inter-American neighbors as trading partners and consumers of our products, it is crucial that problems of social equity and democratic stability be explored in a way that leads to sound policy options. Early in 1994, the North-South Center made a major contribution toward that end with the publication of *Latin American Political Economy in the Age of Neoliberal Reform*, a volume that is the culmination of a project to bring together the most current research available on these topics, as produced by the most distinguished experts in the field. To assure the broadest possible dissemination of the intellectual context of this cutting-edge research, the Center hosted a well-attended book presentation at the March 1994 meeting of the Latin American Studies Association, which is the foremost organization of its kind. To share the book's findings with policy-makers and practitioners in the field, the volume's editor and North-South Center senior research associate, William C. Smith, has discussed it in a presentation to over 30 USIA public affairs officers, as well as in informal meetings with State Department and Pentagon officials at the North-South Center. Through such activities the Center continues to function as a national resource that produces research that is at once scholarly and policy-relevant — and which addresses issues affecting the lives and well-being of U.S. citizens.

Whether it is developing a methodology to assess the impact of free trade on the environment, supporting the planning and execution of pre-summit activities, or bringing disaffected, polarized groups together by providing a neutral forum and serving as a catalyst for change in the Hemisphere, the North-South Center remains on the cutting edge of research, policy analysis, and outreach to strengthen our national security and fortify our role in the Hemisphere.

Federal funding has been an important and, we believe, wise investment by Congress; and the University of Miami at large has contributed millions of dollars as well to enhance the reach and effectiveness of the Center's programs. For 1994, moreover, the University of Miami has committed to support Summit related activities before, during and after the heads of state meeting in December. Together with the University, prominent members of the Executive Branch in the U.S., the governments of Canada, Latin America and the Caribbean, and private sector organizations, the North-South Center is actively engaged in assisting in the planning of the agenda for the Summit of the Americas, and will be deeply involved, along with colleagues in the Department of State, the National Security Council and elsewhere in the Executive

Branch, in pre-summit activities, including the first meeting ever of hemispheric environment ministers in October 1994. Such activities confirm the federal investment in a national resource uniquely positioned to provide support for an historic event that will appropriately take place in Miami, the gateway and crossroads of the Americas.

The federal government is a vitally important source of North-South Center support, but it is by no means the sole source. The Center continues to achieve multiplier effects through co-funding and co-sponsorship of programs and grant projects by other research institutions, international organizations, and the private sector. In this context, we deeply regret the misunderstanding during the 1994 appropriations process, which mistakenly led to the rescission of \$1 million of funds that were already obligated in our budget for important research and information programs.

To propel the promise of the first hemispheric heads of state summit in 27 years into concrete actions, the U.S. and the nations of the hemisphere will need the continuity and sustenance provided by the only permanent national and international resource on Inter-American public policy issues. The North-South Center is already engaged in the planning and execution — in conjunction with the U.S. and other governments — of pre-summit dialogues and agenda-setting discussions to help make the Summit of the Americas a success. By the same token, the Center will be equally well-positioned to nurture the indispensable follow-up process to bring the Summit's full benefits to the citizens of the Americas. Thus, it would be most contradictory, and would work at cross-purposes with U.S. objectives in the hemisphere, to fail to provide full support to the programs and projects of the North-South Center.

Thank you, Mr. Chairman, for the opportunity to submit this statement in support of FY 1995 funding for the North-South Center.

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LETTER FROM STACEY ROSE-BLASS, PRESIDENT, AFGE LOCAL 1812

May 3, 1994

The Honorable Ernest F. Hollings  
United States Senate

Dear Chairman Hollings;

As President of AFGE Local 1812, I represent over 3,500 civil service bargaining unit employees at the U.S. Information Agency. For your committee, I submit the following copies of my testimony delivered to the House Appropriations Subcommittee on Commerce, Justice, State and Judiciary on Thursday, April 28, 1994. My testimony addressed the problems inherent in Director Duffey's plan to "reinvent" the U.S. Information Agency.

Two small points of clarification: 1) Foreign service officers are now also subject to reduction in force (new legislation passed last week) and; 2) since the VOA Asia service already broadcasts in eight languages, I offered the suggestion that perhaps if a "grantee" status organization is mandated, the existing VOA Asia service become the foundation for Radio Free Asia. An entirely new service, begun from scratch, would be cost prohibitive.

Chairman Mollohan indicated that my testimony was excellent and insightful and that his committee would follow-up on my prepared remarks. I trust you will find it interesting as well.

Respectfully submitted,



Stacey Rose-Blass  
President AFGE Local 1812

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STATEMENT OF STACEY ROSE-BLASS

Mr. Chairman:

I thank you for the opportunity to address this committee on behalf of the more than 3,500 civil service bargaining unit employees at the U.S. Information Agency. As President of AFGE Local 1812, I have the honor of representing some of the most educated, insightful and talented employees of the Federal Government. I wish to set before you Labor's vision of the future in this agency in accordance with the letter and spirit of President Clinton's mandate to REINVENT GOVERNMENT.

At 10:00 a.m. this morning our Director, Joseph Duffey, addressed the Senate Subcommittee on Commerce, Justice and State, and stated HIS plan to eliminate 168 positions in Broadcasting and 221 positions from other programs. Director Duffey's plan to downsize and restructure USIA BEFORE implementing all other cost-savings measures mocks both the Administration, overall common sense and the National Performance Review's directives. We ask for your help in encouraging Director Duffey to initiate all other cost-saving measures, including an Agency wide freeze in filling of vacancies from outside, and reducing FTEs by attrition. /Defacto downgrades and other morale damaging aspects of Dr. Duffey's implementation plan diminish the possibility of lasting success for this restructuring effort/.

Flatten the agency. From the Agency's own records, USIA has a supervisor to employee ratio is 1:4, in some areas 1:2! Consolidation of Personnel and Administrative offices at USIA, the Bureau of Broadcasting and the Office of Cuba Broadcasting would eliminate a minimum of 6 (six) positions and reduce payroll costs by \$500,000.00 (five hundred thousand dollars) per year. At USIA there presently exists two Labor Relations Offices. In a cooperative atmosphere of Partnership, a consolidation of offices would reduce payroll costs an additional \$400,000.00 (four hundred thousand dollars) each year.

Director Duffey spoke eloquently of the many programs within the USIA. Yet, the Wireless File, the Computer-Linked News and Information Service is the Very service that bears the brunt of Director Duffey's downsizing and restructuring! His New "Information Bureau" plan has been challenged repeatedly by both creative management officials and employees as being so inadequately staffed that the mission cannot be filled. It is predestined for failure particularly as coupled with the morale problems which will stem from the now planned massive downgradings.

Making even less sense, Director Duffey plans to add a near \$100,000 (one hundred thousand dollar) a year GS-15 OUTSIDE HIRE to head YET ANOTHER MANAGEMENT OFFICE, at the Director's level no less!!! Even as employees agonize about opting for a \$25,000 (twenty-five thousand dollar) PERMANENT buyout. Several "outside Consultants" have also been hired in a few USIA divisions and paid salaries of up to \$300,000.00, PER PERSON!

To make matters even worse, as I'm sure you are aware, the FOREIGN SERVICE is EXEMPT from RIFS, which creates additional layers of unnecessary management. In addition, the USIA Bureau of Management has 781 (seven hundred and eighty one) encumbered positions for

less than 9,000 (nine thousand) employees worldwide. This does not include other supervisors or managers!!!

Mr. Chairman, we, AFGE Local 1812, have to commend Director Duffey for his Attempt to respond to the President's Executive Order establishing Labor-Management Partnerships. But Partnership is not meant to be additions to existing red tape, or hurdles to decision-making. The employees represented by AFGE 1812 have contributed a valiant effort toward creating an entirely viable alternative to Management's plan, some of which you have before you in the form of a streamlining proposal which was sent to OMB on January 3rd.

The employees of the U.S. Information Agency, of all Americans, know the changing direction of world events. /We must harmonize with the vision and mission of public diplomacy/. We were probably the first Americans to know that the Cold War was over and Berlin Wall was falling, and we were the first to report on events in Tiananmen Square. We AS TAXPAYERS, recognize the need to concentrate our budget domestically, but not at the expense of isolating ourselves from the rest of the world. Though USIA's stated mission is to "tell America's story abroad", we tell it personally, through people to people contact, as opposed to government to government relationships. /Knowledge is power, and USIA's modis operandi is to spread knowledge about FREEDOM and DEMOCRACY - both crucial to the human spirit. Humans cannot survive or thrive without freedom./

We promote U.S. trade in the global marketplace. We export American intellectual property. We nurture a Culture of Democracy, Worker Rights, and Environmental Protection in Emerging Markets. We contribute to the economic security that UNDERSCORES our stability at home and abroad. USIA should be re-tooling for the future instead of down-sizing because of the past. /We call upon you to recognize that the American public cannot be served, and

these common goals cannot be attained, by Management or by Labor alone./

The most redundant action you could take would be to allow duplications of Language Services at VOA through NEW GRANTEEES like Radio Free Asia. Radio Free Asia WILL COST the American taxpayers a minimum of \$30 million. Radio Free Asia WILL BE a duplication of eight languages currently broadcast by the Voice of America Asian Service. /In the Office of Cuba Broadcasting, a reorganization plan which includes the elimination of 20 staff was announced three weeks ago, completely bypassing Partnership AND the traditional collective bargaining agreement!//

Mr. Chairman and members of this committee, it is not proper, it is not right, it is not in line with the President's agenda, that Federal Government employees, especially at USIA, who strive so hard to carry out the functions and the mandate that you yourselves legislate, be taken for granted. The Federal Government needs to set an example of how humane and fair relations between management and labor CAN actually be, and how management and labor working together, can bring about a better workplace and a more efficient workforce at USIA.

Thank you for your time.

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